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TO: City Plan Board **Item Number: 1**
FROM: Department of Doing, Planning Division Staff **DATE: March 23, 2017**

SUBJECT: **Petition PB-17-13 TCH, City of Gainesville. Amend the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) by deleting the definition of Rehabilitation Centers and adding a definition for Sexual Offender Treatment Centers; by deleting Rehabilitation Centers as a permitted use in Code; and by adding Sexual Offender Treatment Centers as a permitted use by Special Use Permit in the following zoning districts: General Business District (BUS), Mixed-Use Medium-Intensity District (MU-2), Central City District (CCD), Business Industrial District (BI), and Medical Services District (MD).**

Recommendation

Staff recommends approval of Petition PB-17-13TCH.

Explanation

This petition addresses how the City should regulate social service treatment type facilities (drug abuse, anger management, sex offender...) through-out the City. The City's Land Development Code as it relates to this issue has not been updated for over twenty years, while the problems related to these social disorders have become more prevalent. The existing code is based on outdated concepts and does not address many of the issues that neighborhoods may have concerns about. Based on the Code today, businesses providing service to people with some type of social disorder, mental health, drug abuse, alcohol abuse, disability or similar problem are classified as either a: Health Service, Social Service (Individual and Family Social Services), Rehabilitation Center, or Social Service Home.

Code Classification

The terms below describes how the code defines businesses that serve people with special counseling or treatment needs, and Table 1 shows what zoning districts the uses are currently allowed. What this information tells us about the Code is that it is inconsistent and appears to have a preference in that it would allow Psychologists to treat a host of issues as a health service. Under social services this industry includes offices of specialists providing counseling, referrals, and other social services. This category appears to be distinguished from health service, by having a non- medical related focus. The third and fourth classifications (rehabilitation center and social service home) appear to be describing those facilities that specialize in more intense counseling and therapy for person having issues with a broad range of social disorders. The problem with this type of land development code set-up, is the lack of consistent and predictable for the public, for example a psychologist under health services could treat persons seeking the same treatments listed under rehabilitation centers in an office district as a use by right, whereas

a rehabilitation center would only be allowed by special use permit, both serving the same types of clients (See Table 1).

Health Services

Our current code is based on the 1987 Standard Industrial Classification (SIC) manual. This manual has a category called Health Services which lists all the health/medical related professions. This category has a subcategory call the ‘Offices and Clinics of Health Practitioners, Not Elsewhere Classified”, which allows Psychologists who treat people with any of the stated issues above.

Social Service

Based on the SIC manual, this category would allow several types of counseling services including but not limited to: counseling centers; crisis intervention centers, family counseling centers, offender rehabilitation agencies, alcoholism counseling (non-residential) marriage counseling and social service centers to name a few.

Rehabilitation Center

The land development code defines a Rehabilitation Center as ”a facility providing professional care, nonresident only, for those requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar problems.”

Social Service Home

Social service home or halfway house means a facility providing professional care, resident or nonresident, for those requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar problems.

Table 1(Current Use)

	OR	OF	BUS	MU-1	MU-2	CCD	UMU-1	UMU-2	I-1	BI
Health Services	P	P	P	P	P	P	P	P	N A	P
Social Services	NA	NA	P	P	P	P	P	P	S	
Rehabilitation Center	S	S	S	S	S	S	NA	P	S	P
Social Service Home	S	S	NA	S	S	S	NA	NA	N A	

P- Permitted
 S- Special Use Permit
 NA- Not Allowed

Key Issues

Based on the existing code provisions, discussions with providers and neighborhood representatives affected by these types of service there are several key issues:

- The distinction between sexual offender treatment and other treatment facilities;
- The separation of treatment facilities from residential neighborhoods and facilities involving children activities; and
- Whether sex offenders can be treated for other disorders at other facilities in neighborhoods.

Currently the existing code groups all the different types of treatment facilities together as a rehabilitation center. By doing this, all the facilities for counseling or other rehabilitative services related to drug abuse, alcohol abuse, social disorders, physical disabilities and sexual offenders are treated as if they have similar impacts on the community. In the proposed changes to the regulations we have separated out sexual offender treatment centers from other treatment centers (drugs, alcohol, mental health, physical disabilities and other treatable disorders).

Given the nature of sexual offenders and State Regulation (Exhibit 1) governing where sex offender can reside with distant requirements from facility where children activities occur, it is staff's opinion that it is appropriate for the City to have distant requirements from residential areas, and schools, parks and day care centers. Staff is proposing a 1000 foot buffer between these facilities and facilities where children activities occur and 400 feet from properties designated as a residential zoning district. It is staff's opinion that the other types of treatment facilities do not need buffer requirements.

One major issue that both residents and providers have raised is whether or not a sex offender receiving treatment at a sex offender treatment center can be treated for an auxiliary issue (i.e., drugs or alcohol abuse) at another facility that does not have buffer requirements? Staff is concerned that a center that may treat a group of sex offenders may have an auxiliary facility that could provide treatment for the same group of individual close to neighborhoods and facilities with children activities. Staff is also concerned that having a regulations that would appear to prohibit treatment for sex offenders for other issues may not be the best approach for getting these individuals the holistic help they need. As you can see this poses a dilemma, for example if we take this approach would a sex offender be prohibited from going to an AA meeting, a medical doctor, or a psychologist for depression, if those offices are located within the buffer areas. One option looking at this issue would be to require a provider that treats groups of offenders to provide auxiliary treatment of those clients at the sexual offender treatment center.

Proposed Code Changes

The proposed changes to the code would delete rehabilitation centers as a use, add sexual offender treatment center as a use and modify the definition of social service home or halfway house, as defined below:

~~Rehabilitation center means a facility providing professional care, nonresident only, for those requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar problems.~~

Sexual offender treatment center means an out-patient facility that provides professional therapy, counseling or other rehabilitative services to individuals or groups that are either registered sexual offenders as defined in Section 943.0435, Florida Statutes, or registered sexual predators as defined in Section 775.21, Florida Statutes. (The intent of this definition is that it applies to both adults and juvenile offenders: See Exhibit 2 for FS 943 and 775)

~~Social service home or halfway house means a facility providing professional care, resident or nonresident, for those requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar problems.~~ that provides professional residential care for individuals or groups needing therapy, counseling or other rehabilitative services related to mental or physical disabilities, addictions, social disorders or similar issues, not including sexual offender treatment centers

Table 2 shows the uses and which zoning districts the use would be allowed in based on the code changes. Sexual offender treatment centers as proposed would be allowed in the BUS, MU-2, CCD, BI and MD districts (see Map 1).

Table 2 – Use Districts

	OR	OF	BUS	MU-1	MU-2	CCD	UMU-1	UMU-2	BI	MD
*Health Services	P	P	P	P	P	P	P	P	P	P
**Social Services	P	P	P	P	P	P	P	P	NA	P
Sexual Offender Treatment Center	NA	NA	S	NA	S	S	NA	NA	S	S
Social Service Home	S	S	NA	S	S	S	NA	NA	NA	P

P- Permitted
 S- Special Use Permit
 NA- Not Allowed

*Excludes sexual offender treatment centers

** Excludes sexual offender treatment centers and social service homes or halfway houses

Table 3 provides the proposed distance/ buffer requirements for sexual offender treatment centers and Map 2 illustrates where such centers would be allowed to locate given the distance

requirements. Map 2 is a snapshot in time and any sexual offender treatment center would have to be re-evaluated at the time of permitting. The purpose of the distance requirements is to make sure that no one area of the city is overly burdened with these types of uses.

Table 3
Distance Separation Requirements (in feet)

	Sexual offender treatment centers, social service home or halfway house, food distribution centers and residence for destitute people	Children related facilities: child care centers; schools; public park and youth associations	Residential Zoning Districts: RSF1-4, RC, RMF5-8, RH-1 and 2.
Sexual Offender treatment center	1320	1000	400
Social Service Home or Halfway House	1320	400	

All measurements in the table above shall be measured by a straight line from the nearest property line of any of the above listed facilities to the nearest property line of the proposed facility.

Summary

This is a very complex issue and there are a lot of valid neighborhood concerns regarding resident safety as it relates to sexual offender treatment centers. The purpose of this petition is to address those concerns as it relates to the siting of this use near neighborhoods and children activities. The proposed code changes has established buffer requirements, limit the number of zoning districts where this use could occur, and clarified the definition for several of the uses. Based on these changes and supported by Map 2, the use is limited to certain areas throughout the City. This petition if approved by the City Commission most likely will not change the use of a property that has been granted a prior approval by the City (the law of nonconforming use). Staff recommends approval of this petition with the changes proposed in this staff report and as shown in the draft ordinance in Exhibit 3.

Respectfully submitted,


 Ralph Hilliard
 Planning Manager

Attachments

Map 1: Proposed Zoning Districts

Map 2: Allowable Zoning Locations

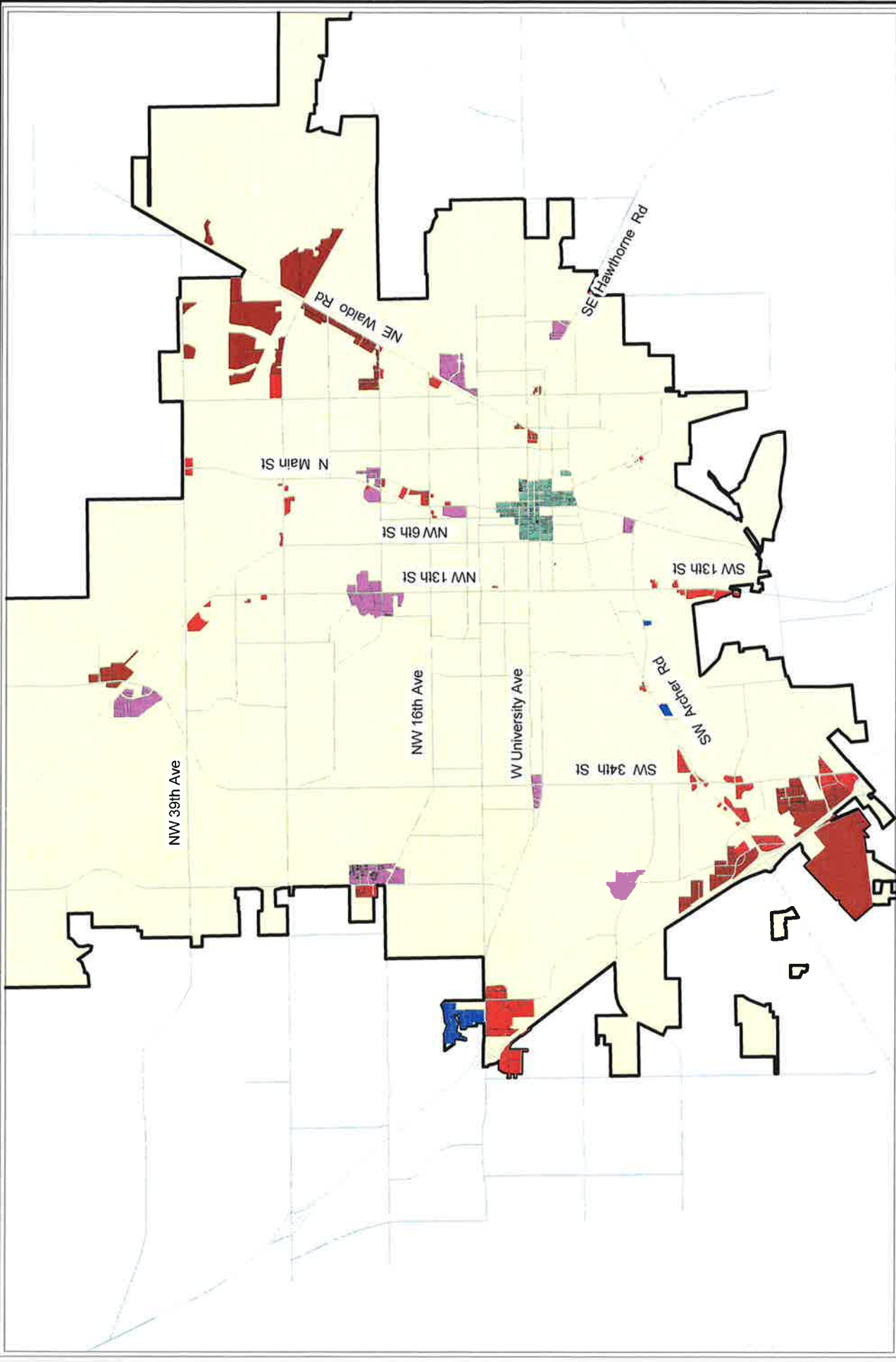
Exhibit 1: Residency restrictions (F.S. Chapter 775) and Loitering and prowling (F.S. Chapter 856)

Exhibit 2: Florida Sexual Predator Act and Sex Offenders (F.S. Chapter 943)

Exhibit 3: Draft Ordinance

Exhibit 4: Citizen Documents

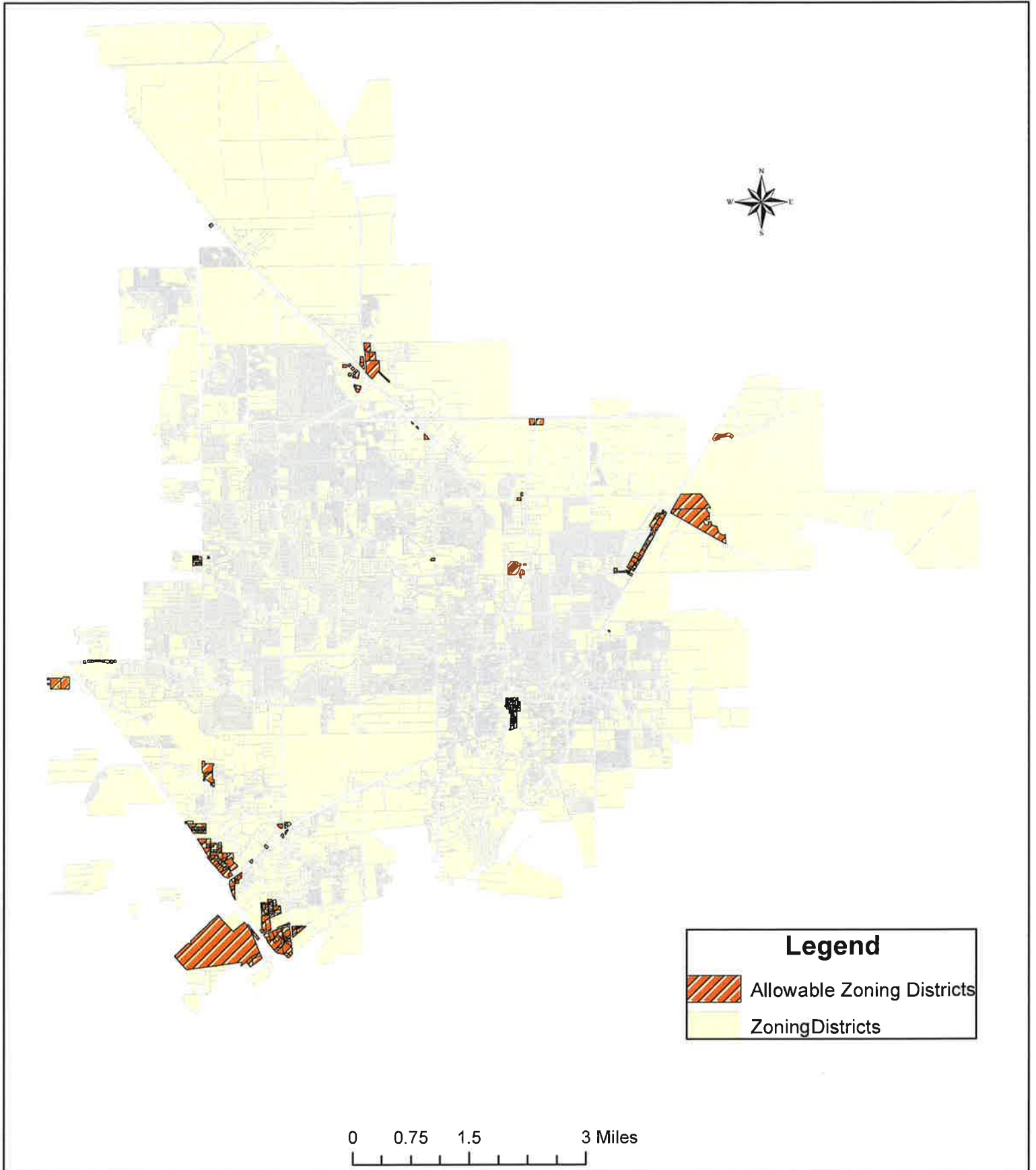
Proposed Zoning District Locations MAP 1



- BUS district
 - MU-2 district
 - CCD district
 - MD district
 - BI district
 - City Limits
- Prepared by: Department of Doing Planning and Development Services
City of Gainesville
February, 2017

Allowable Zoning Districts for Businesses Working with Sex Offenders

MAP 2



The Florida Senate

2016 Florida Statutes



<u>Title XLVI</u> CRIMES	<u>Chapter 775</u> DEFINITIONS; GENERAL PENALTIES; REGISTRATION OF CRIMINALS <u>Entire Chapter</u>	SECTION 215 Residency restriction for persons convicted of certain sex offenses.
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775.215 Residency restriction for persons convicted of certain sex offenses.—

(1) As used in this section, the term:

(a) “Child care facility” has the same meaning as provided in s. [402.302](#).

(b) “Park” means all public and private property specifically designated as being used for recreational purposes and where children regularly congregate.

(c) “Playground” means a designated independent area in the community or neighborhood that is designated solely for children and has one or more play structures.

(d) “School” has the same meaning as provided in s. [1003.01](#) and includes a private school as defined in s. [1002.01](#), a voluntary prekindergarten education program as described in s. [1002.53\(3\)](#), a public school as described in s. [402.3025\(1\)](#), the Florida School for the Deaf and the Blind, and the Florida Virtual School established under s. [1002.37](#) but does not include facilities dedicated exclusively to the education of adults.

(2)(a) A person who has been convicted of a violation of s. [794.011](#), s. [800.04](#), s. [827.071](#), s. [847.0135\(5\)](#), or s. [847.0145](#), regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, may not reside within 1,000 feet of any school, child care facility, park, or playground. However, a person does not violate this subsection and may not be forced to relocate if he or she is living in a residence that meets the requirements of this subsection and a school, child care facility, park, or playground is subsequently established within 1,000 feet of his or her residence.

(b) A person who violates this subsection and whose conviction under s. [794.011](#), s. [800.04](#), s. [827.071](#), s. [847.0135\(5\)](#), or s. [847.0145](#) was classified as a felony of the first degree or higher commits a felony of the third degree, punishable as provided in s. [775.082](#) or s. [775.083](#). A person who violates this subsection and whose conviction under s. [794.011](#), s. [800.04](#), s. [827.071](#), s. [847.0135\(5\)](#), or s. [847.0145](#) was classified as a felony of the second or third degree commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(c) This subsection applies to any person convicted of a violation of s. [794.011](#), s. [800.04](#), s. [827.071](#), s. [847.0135\(5\)](#), or s. [847.0145](#) for offenses that occur on or after October 1, 2004, excluding persons who have been removed from the requirement to register as a sexual offender or sexual predator pursuant to s. [943.04354](#).

(3)(a) A person who has been convicted of an offense in another jurisdiction that is similar to a violation of s. [794.011](#), s. [800.04](#), s. [827.071](#), s. [847.0135\(5\)](#), or s. [847.0145](#), regardless of whether adjudication has been withheld, in which the victim of the offense was less than 16 years of age, may not reside within 1,000 feet of any school, child care facility, park, or playground. However, a person does not violate this subsection and may not be forced to relocate if he or she is living in a residence that meets the requirements of this subsection and a school, child care facility, park, or playground is subsequently established within 1,000 feet of his or her residence.

(b) A person who violates this subsection and whose conviction in another jurisdiction resulted in a penalty that is substantially similar to a felony of the first degree or higher commits a felony of the third degree, punishable as provided in s. [775.082](#) or s. [775.083](#). A person who violates this subsection and whose conviction in another jurisdiction resulted in a penalty that is substantially similar to a felony of the second or third degree commits a misdemeanor of the first degree, punishable as provided in s. [775.082](#) or s. [775.083](#).

(c) This subsection applies to any person convicted of an offense in another jurisdiction that is similar to a violation of s. 794.011, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145 if such offense occurred on or after May 26, 2010, excluding persons who have been removed from the requirement to register as a sexual offender or sexual predator pursuant to s. 943.04354.

History.—s. 2, ch. 2004-55; s. 21, ch. 2008-172; ss. 3,18, ch. 2010-92; s. 6, ch. 2014-39.

Note.— Former s. 794.065.

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<u>Title XLVI</u> CRIMES	<u>Chapter 856</u> DRUNKENNESS; OPEN HOUSE PARTIES; LOITERING; PROWLING; DESERTION <u>Entire Chapter</u>	SECTION 022 Loitering or prowling by certain offenders in close proximity to children; penalty.
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856.022 Loitering or prowling by certain offenders in close proximity to children; penalty. —

(1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection, if the person has not received a pardon for any felony or similar law of another jurisdiction necessary for the operation of this subsection and a conviction of a felony or similar law of another jurisdiction necessary for the operation of this subsection has not been set aside in any postconviction proceeding.

(2) This section does not apply to a person who has been removed from the requirement to register as a sexual offender or sexual predator pursuant to s. 943.04354.

(3) A person described in subsection (1) commits loitering and prowling by a person convicted of a sexual offense against a minor if, in committing loitering and prowling, he or she was within 300 feet of a place where children were congregating.

(4)(a) It is unlawful for a person described in subsection (1) to knowingly approach, contact, or communicate with a child under 18 years of age in any public park building or on real property comprising any public park or playground with the intent to engage in conduct of a sexual nature or to make a communication of any type with any content of a sexual nature. This paragraph applies only to a person described in subsection (1) whose offense was committed on or after May 26, 2010.

(b) It is unlawful for a person described in subsection (1) to knowingly be present in any child care facility or school containing any students in prekindergarten through grade 12 or on real property comprising any child care facility or school containing any students in prekindergarten through grade 12 when the child care facility or school is in operation, if such person fails to:

1. Provide written notification of his or her intent to be present to the school board, superintendent, principal, or child care facility owner;
2. Notify the child care facility owner or the school principal's office when he or she arrives and departs the child care facility or school; or
3. Remain under direct supervision of a school official or designated chaperone when present in the vicinity of children. As used in this paragraph, the term "school official" means a principal, a school resource officer, a teacher or any other employee of the school, the superintendent of schools, a member of the school board, a child care facility owner, or a child care provider.

(c) A person is not in violation of paragraph (b) if:

1. The child care facility or school is a voting location and the person is present for the purpose of voting during the hours designated for voting; or

2. The person is only dropping off or picking up his or her own children or grandchildren at the child care facility or school.

(5) Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—ss. 1, 18, ch. 2010-92; s. 22, ch. 2014-160; s. 2, ch. 2016-104.

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<p><u>Title XLVI</u> CRIMES</p>	<p><u>Chapter 775</u> DEFINITIONS; GENERAL PENALTIES; REGISTRATION OF CRIMINALS</p> <p><u>Entire Chapter</u></p>	<p>SECTION 21 The Florida Sexual Predators Act.</p>
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775.21 The Florida Sexual Predators Act. —

(1) **SHORT TITLE.**—This section may be cited as “The Florida Sexual Predators Act.”

(2) **DEFINITIONS.**—As used in this section, the term:

(a) “Change in status at an institution of higher education” means the commencement or termination of enrollment, including, but not limited to, traditional classroom setting or online courses, or employment, whether for compensation or as a volunteer, at an institution of higher education or a change in location of enrollment or employment, whether for compensation or as a volunteer, at an institution of higher education.

(b) “Chief of police” means the chief law enforcement officer of a municipality.

(c) “Child care facility” has the same meaning as provided in s. [402.302](#).

(d) “Community” means any county where the sexual predator lives or otherwise establishes or maintains a permanent, temporary, or transient residence.

(e) “Conviction” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(f) “Department” means the Department of Law Enforcement.

(g) “Electronic mail address” has the same meaning as provided in s. [668.602](#).

(h) “Entering the county” includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

(i) “Institution of higher education” means a career center, a community college, a college, a state university, or an independent postsecondary institution.

(j) “Internet identifier” includes, but is not limited to, all website uniform resource locators (URLs) and application software, whether mobile or nonmobile, used for Internet communication, including anonymous communication, through electronic mail, chat, instant messages, social networking, social gaming, or other similar programs and all corresponding usernames, logins, screen names, and screen identifiers associated with each URL or application software. Internet identifier does not include a date of birth, Social Security number, personal identification number (PIN), URL, or application software used for utility, banking, retail, or medical purposes. Voluntary disclosure by a sexual predator or sexual offender of his or her date of birth, Social Security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information.

(k) “Permanent residence” means a place where the person abides, lodges, or resides for 5 or more consecutive days.

(l) "Professional license" means the document of authorization or certification issued by an agency of this state for a regulatory purpose, or by any similar agency in another jurisdiction for a regulatory purpose, to a person to engage in an occupation or to carry out a trade or business.

(m) "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 5 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

(n) "Transient residence" means a county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.

(o) "Vehicles owned" means any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a sexual predator or sexual offender; a rented vehicle that a sexual predator or sexual offender is authorized to drive; or a vehicle for which a sexual predator or sexual offender is insured as a driver. The term also includes any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a person or persons residing at a sexual predator's or sexual offender's permanent residence for 5 or more consecutive days.

(3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE INTENT.—

(a) Repeat sexual offenders, sexual offenders who use physical violence, and sexual offenders who prey on children are sexual predators who present an extreme threat to the public safety. Sexual offenders are extremely likely to use physical violence and to repeat their offenses, and most sexual offenders commit many offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes. This makes the cost of sexual offender victimization to society at large, while incalculable, clearly exorbitant.

(b) The high level of threat that a sexual predator presents to the public safety, and the long-term effects suffered by victims of sex offenses, provide the state with sufficient justification to implement a strategy that includes:

1. Incarcerating sexual predators and maintaining adequate facilities to ensure that decisions to release sexual predators into the community are not made on the basis of inadequate space.

2. Providing for specialized supervision of sexual predators who are in the community by specially trained probation officers with low caseloads, as described in ss. 947.1405(7) and 948.30. The sexual predator is subject to specified terms and conditions implemented at sentencing or at the time of release from incarceration, with a requirement that those who are financially able must pay all or part of the costs of supervision.

3. Requiring the registration of sexual predators, with a requirement that complete and accurate information be maintained and accessible for use by law enforcement authorities, communities, and the public.

4. Providing for community and public notification concerning the presence of sexual predators.

5. Prohibiting sexual predators from working with children, either for compensation or as a volunteer.

(c) The state has a compelling interest in protecting the public from sexual predators and in protecting children from predatory sexual activity, and there is sufficient justification for requiring sexual predators to register and for requiring community and public notification of the presence of sexual predators.

(d) It is the purpose of the Legislature that, upon the court's written finding that an offender is a sexual predator, in order to protect the public, it is necessary that the sexual predator be registered with the department and that members of the community and the public be notified of the sexual predator's presence. The designation of a person as a sexual predator is neither a sentence nor a punishment but simply a status resulting from the conviction of certain crimes.

(e) It is the intent of the Legislature to address the problem of sexual predators by:

1. Requiring sexual predators supervised in the community to have special conditions of supervision and to be supervised by probation officers with low caseloads;

2. Requiring sexual predators to register with the Florida Department of Law Enforcement, as provided in this section; and

3. Requiring community and public notification of the presence of a sexual predator, as provided in this section.

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a “sexual predator” under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2) (c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(b) In order to be counted as a prior felony for purposes of this subsection, the felony must have resulted in a conviction sentenced separately, or an adjudication of delinquency entered separately, prior to the current offense and sentenced or adjudicated separately from any other felony conviction that is to be counted as a prior felony regardless of the date of offense of the prior felony.

(c) If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and if:

1. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator; or

2. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the criteria for designation as a sexual predator based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department’s list of sexual predators and, for an offender described under subparagraph 1., shall notify the state attorney who prosecuted the offense that met the criteria for administrative designation as a sexual predator, and, for an offender described under this paragraph, shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence. The state attorney shall bring the matter to the court’s attention in order to establish that the offender meets the criteria for designation as a sexual predator. If the court makes a written finding that the offender is a sexual predator, the offender must be designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided

in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender may not be designated as a sexual predator with respect to that offense and is not required to register or be registered as a sexual predator with the department.

(d) An offender who has been determined to be a sexually violent predator pursuant to a civil commitment proceeding under chapter 394 shall be designated as a “sexual predator” under subsection (5) and subject to registration under subsection (6) and community and public notification under subsection (7).

(5) SEXUAL PREDATOR DESIGNATION. — An offender is designated as a sexual predator as follows:

(a)1. An offender who meets the sexual predator criteria described in paragraph (4)(d) is a sexual predator, and the court shall make a written finding at the time such offender is determined to be a sexually violent predator under chapter 394 that such person meets the criteria for designation as a sexual predator for purposes of this section. The clerk shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order;

2. An offender who meets the sexual predator criteria described in paragraph (4)(a) who is before the court for sentencing for a current offense committed on or after October 1, 1993, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

3. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent, temporary, or transient residence in this state meets the sexual predator criteria described in paragraph (4)(a) or paragraph (4)(d) because the offender was civilly committed or committed a similar violation in another jurisdiction on or after October 1, 1993, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence of the offender’s presence in the community. The state attorney shall file a petition with the criminal division of the circuit court for the purpose of holding a hearing to determine if the offender’s criminal record or record of civil commitment from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the offender is a sexual predator.

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements described in this section. Within 48 hours after the court designating an offender as a sexual predator, the clerk of the circuit court shall transmit a copy of the court’s written sexual predator finding to the department. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court’s written sexual predator finding must be submitted to the Department of Corrections.

(b) If a sexual predator is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual predator’s fingerprints are taken and forwarded to the department within 48 hours after the court renders its written sexual predator finding. The fingerprints shall be clearly marked, “Sexual Predator Registration.” The clerk of the court that convicts and sentences the sexual predator for the offense or offenses described in subsection (4) shall forward to the department and to the Department of Corrections a certified copy of any order entered by the court imposing any special condition or restriction on the sexual predator that restricts or prohibits access to the victim, if the victim is a minor, or to other minors.

(c) If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender meets the sexual predator criteria but the court did not make a written finding that the offender is a sexual predator as required in paragraph (a), the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney who prosecuted the offense for offenders described in subparagraph (a)1., or the state attorney of the county where the offender establishes or maintains a residence upon

first entering the state for offenders described in subparagraph (a)3. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the sexual predator criteria. If the state attorney fails to establish that an offender meets the sexual predator criteria and the court does not make a written finding that an offender is a sexual predator, the offender is not required to register with the department as a sexual predator. The Department of Corrections, the department, or any other law enforcement agency shall not administratively designate an offender as a sexual predator without a written finding from the court that the offender is a sexual predator.

(d) A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person was a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender, shall register in the manner provided in s. 943.0435 or s. 944.607 and shall be subject to community and public notification as provided in s. 943.0435 or s. 944.607. A person who meets the criteria of this section is subject to the requirements and penalty provisions of s. 943.0435 or s. 944.607 until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(6) REGISTRATION.—

(a) A sexual predator shall register with the department through the sheriff's office by providing the following information to the department:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; photograph; address of legal residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses and all Internet identifiers required to be provided pursuant to subparagraph (g)5.; all home telephone numbers and cellular telephone numbers required to be provided pursuant to subparagraph (g)5.; employment information required to be provided pursuant to subparagraph (g)5.; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; date and place of each conviction; fingerprints; palm prints; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

a. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

b. If the sexual predator is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual predator shall also provide to the department pursuant to subparagraph (g)5. the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status. The sheriff, the Department of Corrections, or the Department of

Juvenile Justice shall promptly notify each institution of higher education of the sexual predator's presence and any change in the sexual predator's enrollment, volunteer, or employment status.

c. A sexual predator shall report in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual predator shall register with the Department of Corrections. A sexual predator who is under the supervision of the Department of Corrections but who is not incarcerated shall register with the Department of Corrections within 3 business days after the court finds the offender to be a sexual predator. The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections office that is responsible for supervising the sexual predator. In addition, the Department of Corrections shall notify the department if the sexual predator escapes or absconds from custody or supervision or if the sexual predator dies.

(c) If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator within 3 business days after intake of the sexual predator for any reason and upon release, and shall forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual predator escapes from custody or dies.

(d) If the sexual predator is under federal supervision, the federal agency responsible for supervising the sexual predator may forward to the department any information regarding the sexual predator which is consistent with the information provided by the Department of Corrections under this section, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by the department for purposes of public notification.

(e)1. If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections or is not in the custody of a private correctional facility, the sexual predator shall register in person:

a. At the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in this state; and

b. At the sheriff's office in the county where he or she was designated a sexual predator by the court within 48 hours after such finding is made.

2. Any change in the sexual predator's permanent, temporary, or transient residence; name; vehicles owned; electronic mail addresses; Internet identifiers; home telephone numbers and cellular telephone numbers; and employment information and any change in status at an institution of higher education, required to be provided pursuant to subparagraph (g)5., after the sexual predator registers in person at the sheriff's office as provided in subparagraph 1. must be accomplished in the manner provided in paragraphs (g), (i), and (j). When a sexual predator registers with the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the predator and forward the photographs, palm prints, and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration unless a driver license or an identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a

post office box, and submit to the taking of a photograph for use in issuing a driver license, a renewed license, or an identification card, and for use by the department in maintaining current records of sexual predators. A post office box may not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or an identification card as required by this section. The driver license or identification card issued to the sexual predator must comply with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(g)1. Each time a sexual predator's driver license or identification card is subject to renewal, and, without regard to the status of the predator's driver license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver license office and is subject to the requirements specified in paragraph (f). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section. A sexual predator who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in paragraph (f) and this paragraph shall also report any change of the predator's residence or change in the predator's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this subparagraph do not negate the requirement for a sexual predator to obtain a Florida driver license or identification card as required by this section.

2.a. A sexual predator who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator shall provide or update all of the registration information required under paragraph (a). The sexual predator shall provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

b. A sexual predator shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual predator must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall establish procedures for reporting transient residence information and provide notice to transient registrants to report transient residence information as required in this sub-subparagraph. Reporting to the sheriff's office as required by this sub-subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this sub-subparagraph. The sheriff's office shall, within 2 business days, electronically submit and update all information provided by the sexual predator to the department.

3. A sexual predator who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. The failure of a sexual predator who maintains a transient residence to report in person to the sheriff's office every 30 days as required by sub-subparagraph 2.b. is punishable as provided in subsection (10).

5.a. A sexual predator shall register all electronic mail addresses and Internet identifiers with the department through the department's online system or in person at the sheriff's office before using such electronic mail addresses and Internet identifiers. If the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual predator is in the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers to the Department of Juvenile Justice before using such electronic mail addresses or Internet identifiers.

b. A sexual predator shall register all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual predator is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported in this sub-subparagraph shall be reported within 48 hours after the change.

c. The department shall establish an online system through which sexual predators may securely access, submit, and update all electronic mail address and Internet identifier information, home telephone numbers and cellular telephone numbers, employment information, and institution of higher education information.

(h) The department shall notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator maintains a residence.

(i) A sexual predator who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least 21 days before the date he or she intends to travel if the intended residence of 5 days or more is outside of the United States. Any travel that is not known by the sexual predator 21 days before the departure date must be reported to the sheriff's office as soon as possible before departure. The sexual predator shall provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual predator shall also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the sexual predator's intended residence. The failure of a sexual predator to provide his or her intended place of residence is punishable as provided in subsection (10).

(j) A sexual predator who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or another country and later decides to remain in this state shall, within 48 hours after the date upon which the sexual predator indicated he or she would leave this state, report in person to the sheriff to which the sexual predator reported the intended change of residence, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this

state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a jurisdiction other than the State of Florida, or another country, but who remains in this state without reporting to the sheriff in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(k)1. The department is responsible for the online maintenance of current information regarding each registered sexual predator. The department shall maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph, palm prints, and fingerprints do not have to be stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record. The department may disseminate this public information by any means deemed appropriate, including operating a toll-free telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel shall advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(l) A sexual predator shall maintain registration with the department for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation.

(7) COMMUNITY AND PUBLIC NOTIFICATION.—

(a) Law enforcement agencies must inform members of the community and the public of a sexual predator's presence. Upon notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator establishes or maintains a permanent or temporary residence shall notify members of the community and the public of the presence of the sexual predator in a manner deemed appropriate by the sheriff or the chief of police. Within 48 hours after receiving notification of the presence of a sexual predator, the sheriff of the county or the chief of police of the municipality where the sexual predator temporarily or permanently resides shall notify each licensed child care facility, elementary school, middle school, and high school within a 1-mile radius of the temporary or permanent residence of the sexual predator of the presence of the sexual predator.

Information provided to members of the community and the public regarding a sexual predator must include:

1. The name of the sexual predator;
2. A description of the sexual predator, including a photograph;
3. The sexual predator's current permanent, temporary, and transient addresses, and descriptions of registered locations that have no specific street address, including the name of the county or municipality if known;
4. The circumstances of the sexual predator's offense or offenses; and
5. Whether the victim of the sexual predator's offense or offenses was, at the time of the offense, a minor or an adult.

This paragraph does not authorize the release of the name of any victim of the sexual predator.

(b) The sheriff or the police chief may coordinate the community and public notification efforts with the department. Statewide notification to the public is authorized, as deemed appropriate by local law enforcement personnel and the department.

(c) The department shall notify the public of all designated sexual predators through the Internet. The Internet notice shall include the information required by paragraph (a).

(d) The department shall adopt a protocol to assist law enforcement agencies in their efforts to notify the community and the public of the presence of sexual predators.

(8) VERIFICATION.—The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections and shall report to the department any failure by a sexual predator to comply with registration requirements. County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual predators who are under the care, custody, control, or supervision of the Department of Corrections. Local law enforcement agencies shall report to the department any failure by a sexual predator to comply with registration requirements.

(a) A sexual predator shall report in person each year during the month of the sexual predator's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual predator, which must be consistent with the reporting requirements of this paragraph. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses or Internet identifiers required to be provided pursuant to subparagraph (6)(g)5.; all home telephone numbers and cellular telephone numbers required to be provided pursuant to subparagraph (6)(g)5.; date and place of any employment required to be provided pursuant to subparagraph (6)(g)5.; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

2. If the sexual predator is enrolled or employed, whether for compensation or as a volunteer, at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status.

3. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

(b) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual predator to the department in a manner prescribed by the department.

(9) IMMUNITY.—The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting,

or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual predator fails to report or falsely reports his or her current place of permanent or temporary residence.

(10) PENALTIES. —

(a) Except as otherwise specifically provided, a sexual predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver license or an identification card; who fails to provide required location information, electronic mail address information before use, Internet identifier information before use, all home telephone numbers and cellular telephone numbers, employment information, change in status at an institution of higher education, or change-of-name information; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence; who knowingly provides false registration information by act or omission; or who otherwise fails, by act or omission, to comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another jurisdiction when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, child care facility, park, playground, or other place where children regularly congregate, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) A sexual predator who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator, in the county where the sexual predator was released from incarceration, or in the county of the intended address of the sexual predator as reported by the predator prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

(e) An arrest on charges of failure to register, the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register when the predator has been provided and advised of his or her statutory obligation to register under subsection (6). A sexual predator's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual predator charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual predator who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(f) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual predator of criminal liability for the failure to register.

(g) Any person who has reason to believe that a sexual predator is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual predator in eluding a law enforcement agency that is seeking to find the sexual predator to question the sexual predator about, or to arrest the sexual predator for, his or her noncompliance with the requirements of this section:

1. Withholds information from, or does not notify, the law enforcement agency about the sexual predator's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual predator;

2. Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual predator;

3. Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual predator; or

4. Provides information to the law enforcement agency regarding the sexual predator which the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#). This paragraph does not apply if the sexual predator is incarcerated in or is in the custody of a state correctional facility, a private correctional facility, a local jail, or a federal correctional facility.

History.—s. 1, ch. 93-277; s. 1, ch. 95-264; s. 54, ch. 95-283; s. 61, ch. 96-388; s. 5, ch. 97-299; s. 3, ch. 98-81; s. 1, ch. 98-267; s. 1, ch. 2000-207; s. 3, ch. 2000-246; s. 113, ch. 2000-349; s. 1, ch. 2002-58; s. 1, ch. 2004-371; s. 33, ch. 2004-373; s. 3, ch. 2005-28; s. 5, ch. 2005-67; s. 1, ch. 2006-200; s. 1, ch. 2006-235; s. 2, ch. 2006-299; s. 150, ch. 2007-5; s. 9, ch. 2007-143; s. 3, ch. 2007-207; s. 1, ch. 2007-209; s. 16, ch. 2008-172; s. 2, ch. 2009-194; s. 2, ch. 2010-92; s. 2, ch. 2012-19; s. 3, ch. 2012-97; s. 59, ch. 2013-116; s. 2, ch. 2014-5; s. 18, ch. 2014-160; s. 92, ch. 2015-2; ss. 9, 66, ch. 2016-24; s. 1, ch. 2016-104.

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The Florida Senate

2013 Florida Statutes

<u>Title XLVII</u> CRIMINAL PROCEDURE AND CORRECTIONS	<u>Chapter 943</u> DEPARTMENT OF LAW ENFORCEMENT <u>Entire Chapter</u>	SECTION 0435 Sexual offenders required to register with the department; penalty.
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943.0435 Sexual offenders required to register with the department; penalty. –

(1) As used in this section, the term:

(a)1. “Sexual offender” means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim’s parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I). For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim’s parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(b) where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall additionally make a written finding indicating that the offense did or did not involve sexual activity and indicating that the offense did or did not involve force or coercion. For a violation of s. 800.04(5), the court shall additionally make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(c) "Permanent residence," "temporary residence," and "transient residence" have the same meaning ascribed in s. 775.21.

(d) "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

(e) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(f) "Electronic mail address" has the same meaning as provided in s. 668.602.

(g) "Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.

(2) A sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent, temporary, or transient residence within 48 hours after:

a. Establishing permanent, temporary, or transient residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the information required to be provided pursuant to paragraph (b), including, but not limited to, any change in the sexual offender's permanent, temporary, or transient residence, name, any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d), after the sexual offender reports in person at the sheriff's office, shall be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; fingerprints; photograph; occupation and place of employment; address of permanent or legal residence or address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state, address, location or description, and dates of any current or known future temporary residence within the state

or out of state; home telephone number and any cellular telephone number; any electronic mail address and any instant message name required to be provided pursuant to paragraph (4)(d); date and place of each conviction; and a brief description of the crime or crimes committed by the offender. A post office box shall not be provided in lieu of a physical residential address.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department through the sheriff's office the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status. Each change in enrollment or employment status shall be reported in person at the sheriff's office, within 48 hours after any change in status. The sheriff shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment or employment status.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph and a set of fingerprints of the offender and forward the photographs and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly provide to the department the information received from the sexual offender.

(3) Within 48 hours after the report required under subsection (2), a sexual offender shall report in person at a driver's license office of the Department of Highway Safety and Motor Vehicles, unless a driver's license or identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver's license office the sexual offender shall:

(a) If otherwise qualified, secure a Florida driver's license, renew a Florida driver's license, or secure an identification card. The sexual offender shall identify himself or herself as a sexual offender who is required to comply with this section and shall provide proof that the sexual offender reported as required in subsection (2). The sexual offender shall provide any of the information specified in subsection (2), if requested. The sexual offender shall submit to the taking of a photograph for use in issuing a driver's license, renewed license, or identification card, and for use by the department in maintaining current records of sexual offenders.

(b) Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver's license or identification card as required by this section. The driver's license or identification card issued must be in compliance with s. 322.141(3).

(c) Provide, upon request, any additional information necessary to confirm the identity of the sexual offender, including a set of fingerprints.

(4)(a) Each time a sexual offender's driver's license or identification card is subject to renewal, and, without regard to the status of the offender's driver's license or identification card, within 48 hours after any change in the offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver's license office, and shall be subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles is authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606.

(b) A sexual offender who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

(c) A sexual offender who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A sexual offender must register any electronic mail address or instant message name with the department before using such electronic mail address or instant message name. The department shall establish an online system through which sexual offenders may securely access and update all electronic mail address and instant message name information.

(5) This section does not apply to a sexual offender who is also a sexual predator, as defined in s. 775.21. A sexual predator must register as required under s. 775.21.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections in a manner that is consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. Local law enforcement agencies shall report to the department any failure by a sexual offender to comply with registration requirements.

(7) A sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction. The notification must include the address, municipality, county, and state of intended residence. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state or jurisdiction of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida and later decides to remain in this state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of permanent, temporary, or transient residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to establish a permanent, temporary, or transient residence in another state or jurisdiction but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9)(a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the

sexual offender, or the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender.

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(d) Registration following such arrest, service, or arraignment is not a defense and does not relieve the sexual offender of criminal liability for the failure to register.

(10) The department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, any law enforcement agency in this state, and the personnel of those departments; an elected or appointed official, public employee, or school administrator; or an employee, agency, or any individual or entity acting at the request or upon the direction of any law enforcement agency is immune from civil liability for damages for good faith compliance with the requirements of this section or for the release of information under this section, and shall be presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. The presumption of good faith is not overcome if a technical or clerical error is made by the department, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the Department of Juvenile Justice, the personnel of those departments, or any individual or entity acting at the request or upon the direction of any of those departments in compiling or providing information, or if information is incomplete or incorrect because a sexual offender fails to report or falsely reports his or her current place of permanent, temporary, or transient residence.

(11) Except as provided in s. 943.04354, a sexual offender must maintain registration with the department for the duration of his or her life, unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a)1. Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

- a. For a violation of s. 787.01 or s. 787.02;
- b. For a violation of s. 794.011, excluding s. 794.011(10);
- c. For a violation of s. 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
- d. For a violation of s. 800.04(5)(b);
- e. For a violation of s. 800.04(5)c.2. where the court finds the offense involved unclothed genitals or genital area;
- f. For any attempt or conspiracy to commit any such offense; or
- g. For a violation of similar law of another jurisdiction,

may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender.

2. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney

in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

3. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

(b) As defined in sub-subparagraph (1)(a)1.b. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(12) The Legislature finds that sexual offenders, especially those who have committed offenses against minors, often pose a high risk of engaging in sexual offenses even after being released from incarceration or commitment and that protection of the public from sexual offenders is a paramount government interest. Sexual offenders have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Releasing information concerning sexual offenders to law enforcement agencies and to persons who request such information, and the release of such information to the public by a law enforcement agency or public agency, will further the governmental interests of public safety. The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.

(13) Any person who has reason to believe that a sexual offender is not complying, or has not complied, with the requirements of this section and who, with the intent to assist the sexual offender in eluding a law enforcement agency that is seeking to find the sexual offender to question the sexual offender about, or to arrest the sexual offender for, his or her noncompliance with the requirements of this section:

(a) Withholds information from, or does not notify, the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

(b) Harbors, or attempts to harbor, or assists another person in harboring or attempting to harbor, the sexual offender; or

(c) Conceals or attempts to conceal, or assists another person in concealing or attempting to conceal, the sexual offender; or

(d) Provides information to the law enforcement agency regarding the sexual offender that the person knows to be false information,

commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(14)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor and the offender is not the victim's parent or guardian;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;
6. Section 800.04(5)c.2. where the court finds molestation involving unclothed genitals or genital area;
7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;
8. Any attempt or conspiracy to commit such offense; or
9. A violation of a similar law of another jurisdiction,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which shall be consistent with the reporting requirements of this subsection. Reregistration shall include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; any electronic mail address and any instant message name required to be provided pursuant to paragraph (4) (d); home telephone number and any cellular telephone number; date and place of any employment; vehicle make, model, color, and license tag number; fingerprints; and photograph. A post office box shall not be provided in lieu of a physical residential address.

2. If the sexual offender is enrolled, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, or who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence or who fails to report electronic mail addresses or instant message names, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the department in a manner prescribed by the department.

History.—s. 8, ch. 97-299; s. 7, ch. 98-81; s. 114, ch. 99-3; s. 3, ch. 2000-207; s. 3, ch. 2000-246; s. 3, ch. 2002-58; s. 2, ch. 2004-371; s. 9, ch. 2005-28; s. 3, ch. 2006-200; s. 4, ch. 2006-299; s. 159, ch. 2007-5; s. 10, ch. 2007-143; s. 4, ch. 2007-207; s. 2, ch. 2007-209; s. 3, ch. 2009-194; s. 4, ch. 2010-92; s. 4, ch. 2012-19; s. 11, ch. 2012-97; s. 11, ch. 2013-116.

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ORDINANCE NO.

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An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) by deleting the definition of Rehabilitation Centers and adding a definition for Sexual Offender Treatment Centers; by deleting Rehabilitation Centers as a permitted use in the following zoning districts: Office-Residential District (OR), General Office District (OF), General Business District (BUS), Mixed-Use Low-Intensity District (MU-1), Mixed-Use Medium-Intensity District (MU-2), Urban Mixed-Use District 1 (UMU-1), Urban Mixed-Use District 2 (UMU-2), Central City District (CCD), Business Industrial District (BI), Limited Industrial District (I-1), and Medical Services District (MD); by adding Sexual Offender Treatment Centers as a permitted use by Special Use Permit in the following zoning districts: General Business District (BUS), Mixed-Use Medium-Intensity District (MU-2), Central City District (CCD), Business Industrial District (BI), and Medical Services District (MD); providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, Sections 163.3167 and 163.3177(1), Florida Statutes, requires the City of Gainesville to maintain a Comprehensive Plan to guide the future development and growth of the city by providing the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental and fiscal development of the city; and

WHEREAS, the City of Gainesville is required by Section 163.3202, Florida Statutes, to adopt or amend and enforce land development regulations that are consistent with and implement the Comprehensive Plan, and that are combined and compiled into a single land development code for the city (the City of Gainesville’s Land Development Code is Chapter 30 of the Code of Ordinances); and

WHEREAS, notice was given as required by law that the text of the Land Development Code of the City of Gainesville, Florida, be amended; and

WHEREAS, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of the Charter Laws of the City of Gainesville and which acts as the local planning agency

1 pursuant to Section 163.3174, Florida Statutes, held a public hearing on _____,
 2 and voted to recommend that the City Commission approve this text change to the Land
 3 Development Code; and

4 **WHEREAS**, an advertisement no less than two columns wide by ten inches long was
 5 placed in a newspaper of general circulation and provided the public with at least seven days'
 6 advance notice of this ordinance's first public hearing to be held by the City Commission in the
 7 City Hall Auditorium, located on the first floor of City Hall in the City of Gainesville; and

8 **WHEREAS**, a second advertisement no less than two columns wide by ten inches long
 9 was placed in the aforesaid newspaper and provided the public with at least five days' advance
 10 notice of this ordinance's second public hearing to be held by the City Commission; and

11 **WHEREAS**, public hearings were held pursuant to the notice described above at which
 12 hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

13 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
 14 **CITY OF GAINESVILLE, FLORIDA:**

15 **Section 1.** Subsection 30-23(c) of the Land Development Code is amended as follows.
 16 Except as amended herein, the remainder of Subsection 30-23(c) remains in full force in effect.

17 **Sec. 30-23(c). - Definitions.**

18
 19 ~~Rehabilitation center means a facility providing professional care, nonresident only, for those~~
 20 ~~requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse,~~
 21 ~~social disorders, physical disabilities, mental retardation or similar problems.~~

22
 23 Sexual offender treatment center means an out-patient facility that provides professional therapy,
 24 counseling or other rehabilitative services to individuals or groups that are either registered
 25 sexual offenders as defined in Section 943.0435, Florida Statutes, or registered sexual predators
 26 as defined in Section 775.21, Florida Statutes.
 27

1 ~~Social service home or halfway house means a facility providing professional care, resident or~~
 2 ~~nonresident, for those requiring therapy, counseling or other rehabilitative services related to~~
 3 ~~drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar~~
 4 ~~problems.~~ that provides professional residential care for individuals or groups needing therapy,
 5 counseling or other rehabilitative services related to mental or physical disabilities, addictions,
 6 social disorders or similar issues, not including sexual offender treatment centers.
 7

8 **Section 2.** Subsections 30-59(c) and (e) of the Land Development Code are amended as
 9 set follows. Except as amended herein, the remainder of Subsections 30-59(c) and (e) remains in
 10 full force and effect.

11 **Sec. 30-59. – Office districts (OR and OF).**

12 (c) *Permitted uses, OR district (office-residential district).*

13 (c) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
MG-801 through 804	Health services	<u>excluding sexual offender treatment</u>

14

SIC	Use	Conditions
	USES BY SPECIAL USE PERMIT	
	Rehabilitation centers	In accordance with article VI.

15

16 (e) *Permitted uses, OF (general office district).*

17 (c) *Permitted uses.*

SIC	Uses	Conditions
-----	------	------------

	USES BY RIGHT:	
MG-801 through 804	Health services	<u>excluding sexual offender treatment</u>

1

SIC	Use	Conditions
	USES BY SPECIAL USE PERMIT	
	Rehabilitation centers	In accordance with article VI.

2

3 **Section 3.** Subsection 30-61(c) of the Land Development Code is amended as follows.

4 Except as amended herein, the remainder of Subsection 30-61(c) remains in full force and effect.

5 **Sec. 30-61. – General business district (BUS).**

6 (c) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
MG-80	Health services	Including nursing and personal care facilities (GN-805) in accordance with article VI, and excluding hospitals (GN-806) and sexual offender treatment centers <u>rehabilitation centers</u>
MG-83	Social services	Including day care as defined in article II and in accordance with article VI, <u>and excluding sexual offender treatment centers</u> rehabilitation centers, halfway houses, social service homes or halfway houses, and residences for destitute people as defined in this chapter <u>article II</u>
	<u>USES BY SPECIAL USE PERMIT</u>	
	Rehabilitation centers <u>Sexual offender treatment centers</u>	In accordance with article VI

1
2
3
4
5

Section 4. Subsection 30-64(g) of the Land Development Code is amended as follows.

Except as amended herein, the remainder of Subsection 30-64(g) remains in full force and effect.

Sec. 30-64. – Mixed use low intensity district (MU-1).

(g) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
MG-80	Health services	Including nursing and intermediate care facilities in accordance with article VI when applicable, and excluding rehabilitation centers and hospitals (GN-806) <u>and sexual offender treatment centers</u>
MG-83	Social services	Including day care centers as defined in this chapter and in accordance with article VI, <u>and excluding residential care (GN-836), sexual offender treatment centers</u> rehabilitation centers, halfway houses, social service homes <u>or halfway houses</u> , and residences for destitute people as defined in this chapter
	USES BY SPECIAL USE PERMIT	
	Rehabilitation centers	In accordance with article VI

6
7
8
9
10

Section 5. Subsection 30-65(e) of the Land Development Code is amended as follows.

Except as amended herein, the remainder of Subsection 30-65(e) remains in full force and effect.

Sec. 30-65. – Mixed use medium intensity district (MU-2).

(e) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	

MG-80	Health services	Excluding hospitals (GN-806) and <u>Including nursing and personal care facilities (GN-805) in accordance with article VI, and excluding hospitals (GN-806) and sexual offender treatment centers</u> rehabilitation centers,
MG-83	Social services	<u>Including day care centers as defined in this chapter and in accordance with article VI, and excluding</u> rehabilitation centers, halfway houses, social service homes, sexual offender treatment centers, social service homes or halfway houses, <u>and residences for destitute people as defined in this chapter</u>
	USES BY SPECIAL USE PERMIT	
	Rehabilitation centers <u>Sexual offender treatment centers</u>	In accordance with article VI

1
 2 **Section 6.** Subsection 30-65.1(c)(1) of the Land Development Code is amended as
 3 follows. Except as amended herein, the remainder of Subsection 30-65.1(c)(1) remains in full
 4 force and effect.

5 **Sec. 30-65.1. – Urban mixed-use district 1 (UMU-1).**

6 (c) *Permitted uses.*

7 (1) *Uses by right:*

8 (c) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
MG-80	Health services	Excluding <u>sexual offender treatment centers</u>
MG-83	Social services	<u>Excluding sexual offender treatment centers, social service homes or halfway houses, and residences for destitute people as defined in this chapter</u>

9

SIC	Uses	Conditions
	Rehabilitation centers	In accordance with article VI

1

2 **Section 7.** Subsection 30-65.2(c)(1) of the Land Development Code is amended as
 3 follows. Except as amended herein, the remainder of Subsection 30-65.2(c)(1) remains in full
 4 force and effect.

5 **Sec. 30-65.2 – Urban mixed-use district (UMU-2).**

6 (c) *Uses.*

7 (1) Permitted uses by right are as follows:

8 (c) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
MG-80	Health services	Excluding <u>sexual offender treatment centers</u>
MG-83	Social services	<u>Excluding sexual offender treatment centers, social service homes or halfway houses, and residences for destitute people as defined in this chapter</u>

9

SIC	Uses	Conditions
	Rehabilitation centers	In accordance with article VI

10

11 **Section 8.** Subsection 30-66(c) of the Land Development Code is amended as follows.
 12 Except as amended herein, the remainder of Subsection 30-66(c) remains in full force and effect.

13 **Sec. 30-66. – Central city district (CCD).**

1 (c) *Permitted uses.*

2 (e) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
MG-80	Health services	Excluding hospitals (GN-806) and including nursing and personal care facilities (GN-805) in accordance with article VI, and excluding <u>hospitals (GN-806) and sexual offender treatment centers</u> rehabilitation centers,
GN-832	Individual and Family Social Services	excluding <u>sexual offender treatment centers, social service homes or halfway houses,</u>
GN-839	Social services, not elsewhere classified	Excluding rehabilitation centers
	USES BY SPECIAL USE PERMIT:	
	Rehabilitation centers <u>Sexual offender treatment centers</u>	In accordance with article VI

3

4 **Section 9.** Subsection 30-67.1(c)(1) of the Land Development Code is amended as

5 follows. Except as amended herein, the remainder of Subsection 30-67.1(c)(1) remains in full

6 force and effect.

7 **Sec. 30-67.1. – Business industrial district (BI).**

8 (c) *Permitted uses.*

9 (c) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	

MG-80	Health services	<u>Excluding sexual offender treatment centers</u>
-------	-----------------	--

1

2 ~~(1) Uses by right.~~

	Rehabilitation centers	
	<u>USES BY SPECIAL USE PERMIT:</u>	
	<u>Sexual offender treatment centers</u>	<u>In accordance with Article VI</u>

3

4 **Section 10.** Subsection 30-68(c) of the Land Development Code is amended as follows.

5 Except as amended herein, the remainder of Subsection 30-68(c) remains in full force and effect.

6 **Sec. 30-68. – Warehousing and wholesaling district (W).**

7 (c) *Permitted uses.*

SIC	Uses	Conditions
	<u>USES BY RIGHT:</u>	
MG-80	Health services	Including nursing and intermediate care facilities in accordance with article VI where applicable, and excluding rehabilitation centers and hospitals (GN-806) and <u>sexual offender treatment centers</u>
MG-83	Social services	Including day care centers as defined in this chapter and in accordance with article VI, and excluding <u>sexual offender treatment centers, social service homes or halfway houses, rehabilitation centers, halfway houses, social service homes,</u> and residences for destitute people as defined in this chapter

8

1 **Section 11.** Subsection 30-69(c)(2) of the Land Development Code is amended as
2 follows. Except as amended herein, the remainder of Subsection 30-69(c)(2) remains in full
3 force and effect.

4 **Sec. 30-69. – Limited industrial district (I-1).**

5 (c) *Permitted uses.*

6 (2) *Uses by special use permit.* Any applicable conditions of Article VI shall be met. Uses
7 by special use permit, provided the requirements and conditions of article VI are met, if
8 applicable, and that the findings in section 30-233 are made, in accordance with the
9 procedures provided in section 30-204 of this chapter with the findings of section 30-
10 233:

11 h. ~~Rehabilitation centers.~~

12
13 **Section 12.** Subsection 30-74(c) of the Land Development Code is amended as follows.
14 Except as amended herein, the remainder of Subsection 30-74(c) remains in full force and effect.

15 **Sec. 30-74. – Medical services district (MD).**

16 (c) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
	Rehabilitation centers	In accordance with article VI
	USES BY SPECIAL USE PERMIT:	
	<u>Sexual offender treatment centers</u>	<u>In accordance with Article VI</u>

17
18 **Section 13.** Section 30-89 of the Land Development Code is amended as follows.

19 **Sec. 30-89. - Adult day care homes.**

- 1 (a) A home to be used as an adult day care home shall be an occupied dwelling in which one or
- 2 more of the residents provides care or supervision for more than three natural persons, other
- 3 than the residents requiring such care or supervision. The total number of natural persons
- 4 who are cared for or supervised shall not exceed five (5) persons at any one time. In no event
- 5 shall more than eight (8) natural persons, including the operator's own children under
- 6 eighteen (18) years of age, be permitted at the home at any one time. Such use shall not
- 7 include nursing and personal care facilities, schools, ~~rehabilitation centers~~, social service
- 8 homes or halfway houses, or other similar activities or facilities which are not customarily
- 9 incidental to residential use.
- 10 (b) There shall be no alteration or change to the outside appearance or character of the dwelling
- 11 unit for which the permit is issued.
- 12 (c) No more than two (2) adult day care homes per block face shall be permitted.
- 13 (d) Such use shall be conducted in conformance with all applicable county, state and federal
- 14 laws.

15
 16 **Section 14.** Section 30-108 of the Land Development Code is amended as follows.

17 **~~Sec. 30-108. -- Rehabilitation centers.~~**

18 ~~(a) Dimensional requirements.~~

- 19 ~~(1) Minimum lot area: 10,000 square feet.~~
- 20 ~~(2) Minimum lot width at minimum front yard setback: 100 feet.~~
- 21 ~~(3) Minimum yard setbacks:~~
- 22 ~~a. Front: 25 feet.~~
- 23 ~~b. Rear: 20 feet.~~

24 ~~Except where rear yard abuts property in a residential district or property shown for~~

25 ~~residential use on the land use element of the comprehensive plan: 35 feet.~~

- 26 ~~e. Sides:~~
- 27 ~~1. Street: 10 feet.~~
- 28 ~~2. Interior: 20 feet.~~

29 ~~Except where the side yard abuts property in a residential district or property~~

30 ~~shown for residential use on the land use element of the comprehensive plan: 35~~

31 ~~feet.~~

- 32 ~~(b) Spacing and location. Rehabilitation centers shall not be located closer than 1,320 feet from~~
- 33 ~~any other rehabilitation center, halfway house or social service home and shall not be located~~
- 34 ~~closer than 1,320 feet from any soup kitchen (food distribution center for the needy) or~~
- 35 ~~residence for destitute people or combination thereof. All measurement shall be from the~~
- 36 ~~nearest property line of any of the above listed facilities to the nearest property line of the~~
- 37 ~~proposed facility.~~

1 ~~(e) *Buffer.* Rehabilitation centers shall comply with the buffer requirements of offices, schools~~
2 ~~and places of religious assembly in accordance with the landscape ordinance.~~

3 ~~(d) *Development plan approval.* Development plan approval, in accordance with the~~
4 ~~requirements of Article VII, is required prior to the issuance of a building permit for all~~
5 ~~rehabilitation centers.~~

6 **Sec. 30-108. – Sexual offender treatment center.**

7 (a) *Dimensional requirements.* All principal and accessory structures for sexual offender
8 treatment centers shall be located and constructed in accordance with the following
9 requirements:

10 (1) Minimum lot area: 10,000 square feet.

11 (2) Minimum lot width at minimum front yard setback: 100 feet.

12 (3) Minimum yard setbacks:

13 a. Front: 25 feet.

14 b. Rear: 20 feet.

15 c. Sides:

16 1. Street: 10 feet.

17 2. Interior: 20 feet.

18 (b) *Spacing and location requirements.* Sexual offender treatment centers shall be located at
19 least 1,320 feet from any other sexual offender treatment center, social service home or
20 halfway house, food distribution center for the needy, residence for destitute people or
21 combination thereof.

22 Sexual offender treatment centers shall be located at least 1000 feet from any child care
23 center, public or private school duly accredited and offering any grades from kindergarten
24 through twelfth grade, public park, youth association and 400 feet from any residential
25 zoning district.

26 All measurements shall be measured by a straight line from the nearest property line of any
27 of the above-listed facilities to the nearest property line of the proposed facility.

28 (c) *Development plan approval.* Development plan approval, in accordance with the
29 requirements of Article VII, is required prior to the issuance of a building permit for all
30 sexual offender treatment centers.

31

32 **Section 15.** Section 30-109 of the Land Development Code is amended as follows.

33 **Sec. 30-109. – Social service homes and halfway houses.**

34 (a) *Dimensional requirements.* All principal and accessory structures for social service homes
35 and halfway houses shall be located and constructed in accordance with the following
36 requirements:

- 1 (1) Minimum lot area: 10,000 square feet.
- 2 (2) Minimum lot width at minimum front yard setback: 100 feet.
- 3 (3) Minimum yard setbacks:

- 4 a. Front: 25 feet.
- 5 b. Rear: 20 feet.

6 Except where the rear yard abuts property in a residential district or property shown
7 for residential use on the land use element of the comprehensive plan: 35 feet.

- 8 c. Side:
 - 9 1. Street: 10 feet.
 - 10 2. Interior: 20 feet.

11 Except where the side yard abuts property in a residential district or property shown
12 for residential use on the land use element of the comprehensive plan: 35 feet.

13 (b) *Spacing and location requirements.* Social service homes and ~~or~~ halfway houses shall ~~not~~ be
14 located ~~closer than~~ at least 1,320 feet from any other social service home; or halfway house,
15 community residential homes for 21 persons or more or rehabilitation center and shall not be
16 located ~~closer than 2,640 feet from any soup kitchen sexual offender treatment center, food~~
17 distribution center for the needy, or residence for destitute people or combination thereof. All
18 measurement shall be from the nearest property line of any of the above listed facilities to the
19 nearest property line of the proposed facility.

20 Social service homes and halfway houses shall be located at least 400 feet from any child
21 care center, public or private school duly accredited and offering any grades from
22 kindergarten through twelfth grade, public park, youth association or any residential zoning
23 district.

24 All measurements shall be measured by a straight line from the nearest property line of any
25 of the above-listed facilities to the nearest property line of the proposed facility.

26 (c) ~~Buffer requirements.~~ Social service homes and halfway houses shall comply with the
27 requirements of offices, schools and places of religious assembly in accordance with Article
28 VIII.

29 (d)(c) *Development plan approval.* Development plan approval, in accordance with the
30 requirements of Article VII, is required prior to the issuance of a building permit for all social
31 service homes and halfway houses.

32

33 **Section 16.** Section 30-110 of the Land Development Code is amended as follows.

34 Except as amended herein, the remainder of Section 30-110 remains in full force and effect.

35 **Sec. 30-110. - Residences for destitute people.**

1 Except as provided as an accessory use to places of religious assembly, residences for destitute
2 people shall be regulated as follows:

3 (a) *Spacing and location.* Residences for destitute people shall ~~not~~ be located at least ~~closer than~~
4 ~~one thousand three hundred twenty (1,320)~~ feet from any social service home; or ~~halfway~~
5 ~~house or rehabilitation center~~ and at least ~~shall not be closer than two thousand (2,000)~~ feet
6 from any other residence for destitute people, food distribution center for the needy or
7 combination thereof. All measurements shall be measured from the nearest property line of
8 the above-listed facilities to the nearest property line of the proposed facility.

9
10 **Section 17.** Section 30-111 of the Land Development Code is amended as follows.

11 Except as amended herein, the remainder of Section 30-111 remains in full force and effect.

12 **Sec. 30-111. - Food distribution centers for the needy.**

13 Except ~~when~~ as provided as an accessory use to places of religious assembly, food distribution
14 centers for the needy shall be regulated as follows:

15 (2) *Distance requirements.* Food distribution centers for the needy shall be located at least 2,000
16 feet from any other ~~The distance between any food distribution center for the needy and any~~
17 ~~other~~ food distribution center for the needy or residence for destitute people, or facility
18 combining both uses, and at least 1,320 feet from any social service home or halfway house;
19 ~~shall be 2,000 feet. The distance between any food distribution center for the needy and any~~
20 ~~social service home, halfway house or rehabilitation center shall be 1,320 feet.~~ All distance
21 measurements shall be from the nearest property line of any existing facility to the nearest
22 property line of the proposed facility. However, there shall be no food distribution center for
23 the needy located in the area described in Appendix D located at the end of this chapter, ~~and~~
24 ~~as shown on the map maintained in the department of community development.~~

25
26 **Section 18.** Subsection 30-332(c) of the Land Development Code is amended as follows.

27 Except as amended herein, the remainder of Subsection 30-332(c) remains in full force and
28 effect.

29 **Sec. 30-332. - Required number of parking spaces.**

	Use	Number of Vehicle Spaces	Number of Bicycle Spaces
(c)	<i>Business uses:</i>		

	<i>Professional services:</i>		
	Rehabilitation centers, Social service homes and halfway houses	1 per 500 square feet of floor area	10 percent of required number of vehicle parking

1

2 **Section 19.** Appendix A. – Special Area Plans, Section 7. - Special Area Plan for
3 Southwest 13th Street, Subsection (i) of the Land Development Code is amended as follows.
4 Except as amended herein, the remainder of Appendix A., Section 7., Subsection (i) remains in
5 full force and effect.

6 (i) *Prohibited uses.* The following land uses shall be prohibited within the Corridor:

Use	SIC Code
Rehabilitation centers	N/A

7

8 **Section 20.** Appendix A. – Special Area Plans, Section 8. – Special Area Plan Southeast
9 Gainesville Renaissance Initiative Area, Subsection (d)(9) of the Land Development Code is
10 amended as follows. Except as amended herein, the remainder of Appendix A., Section 8.,
11 Subsection (d)(9) remains in full force and effect.

12 (d) *General Regulations.*

13 (9) *Prohibited Uses.* The below uses are prohibited in SEGRI. No exceptions or waivers
14 are permitted for these uses:

15 ~~Rehabilitation Centers~~

16

17 **Section 21.** It is the intent of the City Commission that the provisions of Sections 1
18 through 20 of this ordinance shall become and be made a part of the Code of Ordinances of the

1 City of Gainesville, Florida, and that the sections and paragraphs of the Code of Ordinances may
2 be renumbered or relettered in order to accomplish such intent.

3 **Section 22.** If any word, phrase, clause, paragraph, section or provision of this ordinance
4 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
5 finding shall not affect the other provisions or applications of this ordinance that can be given
6 effect without the invalid or unconstitutional provision or application, and to this end the
7 provisions of this ordinance are declared severable.

8 **Section 23.** All ordinances or parts of ordinances in conflict herewith are to the extent of
9 such conflict hereby repealed.

10 **Section 24.** This ordinance shall become effective immediately upon adoption.

11

12

13

14 **PASSED AND ADOPTED** this _____ day of _____, 2016.

15

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Attest:

LAUREN POE
MAYOR

Approved as to form and legality:

KURT M. LANNON
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

This ordinance passed on first reading this _____ day of _____, 2016.

1
2 This ordinance passed on second reading this ____ day of _____, 2016.



Citizen Documents

MEMORANDUM OF LAW

TO: City of Gainesville, City Plan Board

FROM: Knellinger, Jacobson & Associates o/b/o the ITM Group

DATE: March 16, 2017

RE: Constitutionality of Proposed Ordinance for Sexual Offender Treatment Centers Zoning Use Designation

SCOPE

This memorandum addresses the constitutionality of the Proposed Ordinance attached to this memorandum as “Exhibit A,” which creates a zoning use designation for “Sexual Offender Treatment Center” (“SOTC”) in the City of Gainesville (“City”) Land Development Code (“Code”).

DISCUSSION

In order for a municipal ordinance to pass constitutional muster, the ordinance must relate to public health, safety, or welfare. *See generally De Weese v. Palm Beach*, 812 F.2d 1365, 1367-70 (11th Cir. 1987) (finding unconstitutional a local ordinance prohibiting residents from appearing in town without a garment covering the upper portion of their bodies because such a prohibition was not rationally related to a legitimate governmental interest); *see also Kuvin v. City of Coral Gables*, 62 So. 3d 625, 632-33, 642 (Fla. 3d DCA 2010) (outlining the rational basis scrutiny standard). Depending on the constitutional rights affected by a municipal ordinance, courts will apply different standards when reviewing the ordinance’s constitutionality. In considering whether to adopt the Proposed Ordinance, the City Plan Board, and ultimately the City Commission, should consider the constitutional implications of the Proposed Ordinance’s language and its practical effects on City residents, which are addressed in this memorandum.

I. Factual Background

The zoning use designation SOTC in the Proposed Ordinance replaces the former ordinance provision, which essentially designated all facilities providing therapy as “rehabilitation centers.” Section 30-108 of the Code created the zoning use designation “rehabilitation center,” which allowed such facilities to operate in most of the City’s zoning districts upon the approval of a Special Use Permit (“SUP”). Up until the drafting of the Proposed Ordinance, all facilities providing therapy were repeatedly approved by the City to provide therapy without a SUP in violation of Section 30-108 of the Code. The ITM Group was under the impression that providing therapy was a Permitted Use in the office zoning districts when it purchased its property at 1208 NW 6th Street after multiple preliminary conversations with City Officials. *See* “Exhibit B.” After purchasing the property, the ITM Group was notified that it would now need a SUP because it was classified as a “rehabilitation center.” *See* “Exhibit C.”

The designation “rehabilitation center” is unconstitutionally vague. The vagueness of the former ordinance provision that is now being removed from the City Code has been discussed in correspondence with the City Attorney’s office. *See* Exhibits “D,” “E,” “F,” “G,” and “H.” On April 29, 2016, a meeting was held at the City Attorney’s Office regarding the removal of the “rehabilitation center” language in the Code to be replaced with the zoning use designation for “Sexual Offender Treatment Center.” The ITM Group also hosted its own neighborhood workshops to engage in discussions with the local community. On March 17, 2016, the first neighborhood workshop was hosted by the ITM Group. On March 22, 2016, a neighboring therapist hosted a neighborhood workshop. Therapists from the

ITM Group was turned away from participating in that meeting. On May 14, 2016, the ITM Group hosted another neighborhood workshop.

The ITM Group's facility at 1208 NW 6th Street caught the attention of the community, and multiple articles were published in the Gainesville Sun beginning on April 15, 2016 and ending on June 11, 2016. See Exhibits "N," "O," "P," "Q," "R," and "S." The City also addressed the concerns of the community through multiple public hearings.¹ At the City Commission meeting on May 19, 2016, some members of the community voiced their opinions regarding the ITM Group.² The City Commission subsequently held a special meeting on May 26, 2016 to discuss the issues more in depth.³ After circulating a draft version of the Proposed Ordinance to affected parties, the City met with the ITM Group on February 7, 2017, and then met with the local community on February 9, 2017.

II. Constitutional Vagueness Standard

An ordinance or statute is unconstitutionally vague, and thus void, if its provisions do not inform a person of normal intelligence what conduct is either prohibited or permitted. *Hoffman Estates v. Flipside, Hoffman Estates*, 455 U.S. 489, 497-99 (1982); *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972). Because of imprecise language

¹ See <http://www.gainesville.com/news/20160523/sex-offenders-treated-at-itm-group-site-near-kids-city-commissioner-says>.

² See http://gainesville.granicus.com/MediaPlayer.php?view_id=2&clip_id=2661. The public comments regarding the ITM Group begin 238 minutes into the video and continue until the 312 minute mark in the video.

³ See http://gainesville.granicus.com/MediaPlayer.php?view_id=2&clip_id=2667. The City Commission begins discussing the ITM Group at the 25 minute mark until the 1 hour and 38 minute mark in the video.

in a vague ordinance, it invites a local government to arbitrarily enforce the ordinance provisions. *Brown v. State*, 629 So. 2d 841, 842 (Fla. 1994). The Proposed Ordinance is void for vagueness under the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Florida Constitution by failing to define the term SOTC with sufficient precision and particularity as to give the ITM Group fair notice of what conduct triggers the zoning use designation. *See Fla. Action Comm., Inc. v. Seminole Cnty.*, 2016 U.S. Dist. LEXIS 79189 at *14-20 (Fla. M.D. 2016) (finding that the plaintiffs stated a claim for vagueness in relation to sexual offender residency restrictions). Moreover, the Proposed Ordinance does not provide sufficient notice of where a SOTC may lawfully provide therapy for sexual offenders or sexual predators under the dimensional requirements of the Proposed Ordinance.

A. The Proposed Ordinance is Vague Because it is Unclear What Designates a Facility a SOTC

On its face, the Proposed Ordinance is vague because it is unclear what conduct triggers the City's determination that a "facility that provides professional therapy, counseling, or other rehabilitative services to individuals or groups that are either registered sexual offenders . . . or registered sexual predators . . .," thus making that facility a "Sexual Offender Treatment Center." There is no standard in the Proposed Ordinance setting forth how many sexual offenders attending one facility providing therapy makes that facility a SOTC, or what factors the City must consider in making that designation. The Proposed Ordinance essentially designates all facilities providing therapy as SOTC because a person who is registered as a sexual offender either is attending therapy as part of a treatment

program or attending therapy with a treatment provider on his or her own volition. Further, the Proposed Ordinance would make a facility providing therapy a SOTC if a sexual offender attends therapy for reasons unrelated to his or her sexual offender status such as treating depression or anxiety. A sexual offender may begin therapy, and the therapist may not become aware of that person's status as a sexual offender until after a few therapy sessions.

The requirement of the City to approve a SUP to allow a SOTC in the limited zoning districts provided by the Proposed Ordinance gives the City the arbitrary discretion to approve or deny any facility providing therapy based on a myriad of unspecified reasons. The Proposed Ordinance does not provide sufficient guidance as to how many sexual offenders or those convicted of what crimes would trigger the designation of a facility as a SOTC. Further, the Proposed Ordinance's effect of disclosing to City Officials each patient's reasons for seeking therapy, even if unrelated to prior sexual offenses, violates his or her privacy rights under the Florida Constitution.

The vague language in the Proposed Ordinance may cast a wider net of prohibition than is intended by the City. The Proposed Ordinance may prevent other "facilities" from providing "therapy, counseling, or other rehabilitative services . . ." just because one sexual offender may decide to attend one session where "rehabilitative services" are provided. For example, churches, alcoholics anonymous meetings, narcotics anonymous meetings, or even certain doctor's offices may end up being classified as "facilities." These "facilities" may have to be relocated because they provide some kind of "therapy, counseling, or other rehabilitative services . . ." to sexual offenders at one time or another without the

appropriate permit. A church pastor will have to relocate a church because a sexual offender seeks the help of the church, or if the church rents out a room to provide temporary treatment to a group of sexual offenders. Moreover, almost every facility that currently provides therapy will be in violation of the Proposed Ordinance because of the close proximity of most facilities providing therapy to residential areas.

It is unclear whether registered sexual offenders would be prevented from seeking any kind of treatment for mental health issues at any “facility” because, once he or she attends one session for treatment, that “facility” has now become a SOTC. The stigma faced by treatment providers may be too great a burden, and the providers may stop treating sexual offenders all together, even for problems unrelated to their prior sexual offenses. While the Proposed Ordinance may force SOTC to certain designated areas in the City, the Proposed Ordinance also reduces the ability for those people classified as sexual offenders to seek any kind of treatment, even if unrelated to prior sexual offenses. Many times, those people required to register as sexual offenders have not committed crimes against children. *E.g.*, Fla. Stat. § 787.01(2) (kidnaping); Fla. Stat. § 787.02(2) (false imprisonment); Fla. Stat. § 787.06(3)(b), (d) (human trafficking); Fla. Stat. § 794.011(4)(b) (sexual battery); Fla. Stat. § 825.1025 (lewd or lascivious offenses in the presence of an elderly person); *See* “Exhibit I.”

B. The Proposed Ordinance is Vague Because it is Unclear Where the Prohibited Exclusion Areas are Located

The granting or withholding of a permit to engage in a legitimate business should not depend on the whim or caprice of the permitting authority. *Compare Effie, Inc. v. Ocala,*

438 So. 2d 506, 508-10 (Fla. 5th DCA 1983) (finding that an ordinance was vague because it failed to provide any standards or guidelines upon which the city council might act) *with Windward Marina, LLC v. City of Destin*, 743 So. 2d 635, 638-40 (Fla. 1st DCA 1999) (holding that the city could not deny the permit for a development based on a factor that was not enumerated in the ordinance).

The Proposed Ordinance does not properly define what constitutes a “child care center,” “public park,” or “youth association,” the terms that trigger the dimensional requirements of the Proposed Ordinance. The City’s failure to adequately identify all schools, daycare centers, parks, playgrounds, youth associations, and other general terms does not notify SOTC where the prohibited exclusion zones of the Proposed Ordinance are located. *Fla. Action Committee, Inc.*, 2016 U.S. Dist. LEXIS 79189 at *19-20. Unclear terms like “child care center,” “public park,” and “youth association” effectively empowers City officials, judges, and juries to enforce the Proposed Ordinance on an *ad hoc*, subjective, arbitrary, or discriminatory basis. Because those who will enforce the law and those that are subject to its enforcement must necessarily guess at the meaning, and differ in understanding of its application, of the terms in the Proposed Ordinance, the Proposed Ordinance is unconstitutionally vague. *Connally v. General Constr. Co.*, 269 U.S. 385, 391-95 (1926).

C. The Proposed Ordinance is Vague Because it is Unclear What Factors Would Allow a SOTC to be Granted a SUP

Without specific standards for City officials to consider when granting a SUP, it invites arbitrary enforcement of the Proposed Ordinance. *Id.* at 391. As a result, the City

will be able to effectively prevent every facility providing therapy to sexual offenders from providing treatment without providing legitimate and statutorily established reasons. By not providing standards as to what level of treatment of sexual offenders causes a facility to be designated a “Sexual Offender Treatment Center,” it does not inform treatment providers of explicit standards that would subject them to the restrictions of the Proposed Ordinance. *Get Back Up, Inc. v. City of Detroit*, 606 Fed. Appx. 792, 797-98 (6th Cir. 2015); *Parker v. Leon Cnty.*, 1992 U.S. Dist. LEXIS 20723 at *53-76 (Fla. N.D. 1992). Moreover, mandatory inquiry into treatment provider’s client lists run afoul of the patient-client confidentiality privilege and will deter those with mental health problems from seeking treatment. By forcing patients to disclose to the City their reasons for seeking therapy, as well as any other mental health issues they may have, violates the privacy protections of Article I, Section 23 of the Florida Constitution.

III. First Amendment Concerns

An ordinance that is vague may also violate other constitutional rights, such as the rights of free assembly and association. United States Supreme Court decisions establish that “mere public intolerance or animosity cannot be the basis for abridgment of these constitutional freedoms.” *Coates v. Cincinnati*, 402 U.S. 611, 615 (1971). When the First Amendment is implicated, a vague ordinance or law cannot be so overly broad that it substantially prohibits more speech than necessary. *See Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 499-500 (1985) (finding a portion of a state obscenity statute to be overbroad because it used the term “lust” in defining obscene matter). If the overbreadth of the law is “substantial,” the law must be narrowly tailored to prohibit only constitutionally

unprotected activity. *Id.* at 503.

The “talking cure” engaged in between a therapist and a patient is constitutionally protected speech under the First Amendment of the United States Constitution. *Compare Nat. Ass’n for the Advancement of Psychoanalysis v. Cal. Bd. of Psychology*, 228 F.3d 1043, 1053 (9th Cir. 2000) (holding that psychoanalysis is entitled to constitutional protection but the licensing laws were upheld because the law was content and viewpoint neutral); *with Pickup v. Brown*, 740 F.3d 1208, 1222-26 (9th Cir. 2014) (holding that rational basis review was applicable because the state law regulated treatment, not speech). *Pickup* was analyzed under the rational basis test because it did not prevent mental health counselors from administering “sexual orientation change efforts,” and only subjected counselors to professional reprimand for engaging in practices that seek to change a minor’s sexual orientation. *Id.* at 1223.

This is inapposite to the substantial effect of the Proposed Ordinance, which wholly prevents SOTC from speaking exclusively in favor of treatment to sexual offenders while therapists treating sexual abuse victims do not face similar restrictions. The Proposed Ordinance is both content and viewpoint-based. *See Conant v. Walters*, 309 F.3d 629, 637 (9th Cir. 2002) (finding that a policy against doctors “recommending” marijuana was both content and viewpoint-based). Because the Proposed Ordinance is both content and viewpoint-based, the City’s policy must have the requisite “narrow specificity” to survive First Amendment scrutiny. *Id.* at 639.

A. Reasonable Time-Manner-Place Zoning Restrictions

A zoning ordinance prohibiting the location of a specific land use is constitutional

if it is regulated as a “content neutral” time, place, and manner regulation. *See Renton v. Playtime Theatres*, 475 U.S. 41, 47 (1986) (holding that time, place, and manner restrictions on adult motion picture theaters were constitutional because they were aimed at the secondary effects of such theaters and not the speech itself). The regulation of secondary effects of a land use that is the subject of time, manner, and place restrictions must be reasonable. *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860, 873-74 (11th Cir. 2007). The secondary effects of a land use must be shown through the use of evidence, and the state’s interest in regulating the secondary effect of adult entertainment establishments is well-established. Conversely, negative secondary effects in the surrounding areas of facilities providing therapy to sexual offenders has never been established. *See* “Exhibit J.”

B. The Proposed Ordinance Must Be Narrowly Tailored to the Harm Identified by it

If negative effects of facilities providing therapy to sex offenders were shown through evidence, a municipality must still show that the ordinance furthers the interest of the municipality of regulating those alleged negative effects. *Daytona Grand*, 490 F.3d at 875; *Flanigan’s Enters. v. Fulton Cnty.*, 596 F.3d 1265, 1279-81 (11th Cir. 2010). There are no studies showing that there is a historical problem of crime in and around facilities providing therapy to sexual offenders. Therefore, the restrictions in the Proposed Ordinance that are placed on SOTC are not rationally related to the alleged negative secondary effects of facilities providing therapy to sexual offenders, if there are any negative secondary effects at all.

Empirical studies published in scientific peer-reviewed publications consistently show that there is no causal relationship between a sexual offender's residential proximity to schools, playgrounds, parks, child care centers, and youth associations and the sexual offender's propensity to reoffend. See Zandbergen, P., Levenson, J.S., & Hart, T. (2010), "Residential Proximity to schools and daycares: An empirical analysis of sex offense recidivism," *Criminal Justice and Behavior*, 37, 482-502.⁴ In fact, by making it harder for sexual offenders to receive treatment, it actually increases the likelihood of a sexual offender to reoffend. The SUP acts as a prior restraint on therapists' speech about sexual offenders and in favor of their treatment. Without sufficient standards for the approval of a license to provide the "talking cure" of therapy, it is an unconstitutional prior restraint on expression protected by the First Amendment. *Fly Fish, Inc. v. City of Cocoa Beach*, 337 F.3d 1301, 1312-15 (11th Cir. 2003). If the Proposed Ordinance's effect is not narrowly tailored to prevent the harm it is intended to prevent, it cannot be upheld as constitutional under the First Amendment. If there is no evidence of the perceived harm, there is no governmental interest to protect.

IV. Equal Protection Concerns

The Equal Protection Clause of the 14th Amendment to the United States Constitution requires that all states treat similarly situated people equally under the law. The application of the Proposed Ordinance to the ITM Group, much like the use of the previous "rehabilitation center" designation, treats them differently than all other similarly

⁴<http://journals.sagepub.com/doi/pdf/10.1177/0093854810363549>.

situated therapists in Gainesville, some of which may also treat sex offenders in violation of the Proposed Ordinance. If the government treats two similarly situated people differently, it can only do so if the classification serves a legitimate purpose that is rationally related to that purpose. *City of Cleburne v. Cleburn Living Ctr.*, 473 U.S. 432, 439-40 (1985). Statistical and medical evidence must be used to support a state's reasoning for enacting a statute. *E.g., Rundlett v. Oliver*, 607 F.2d 495, 502-03 (1st Cir. 1979).

A. Facial Constitutionality

The Proposed Ordinance, on its face, seems to apply equally to all facilities providing therapy. Despite the problems with the vague language in the Proposed Ordinance, the classification does not expressly single out a suspect class⁵ and must be analyzed using the rational basis standard. The justification for the Proposed Ordinance must be that the proximity of facilities that provide therapy to sexual offenders to areas where children congregate creates a higher chance of sexual offenses being committed by these sexual offenders, which in turn justifies the dimensional requirements of the Proposed Ordinance. The harm the government seeks to prevent must actually be diminished by an ordinance for that ordinance to be constitutional. *See In re Taylor*, 343 P.3d 867, 879-82 (Cal. 2015) (finding that blanket enforcement of sexual offender residency restrictions was not rationally related to a legitimate governmental interest because it actually hampered efforts to monitor, supervise, and rehabilitate parolees by forcing them to be homeless because of the overly strict residency restriction).

⁵ *E.g.*, race, national origin, religion, gender.

There is no empirical evidence, nor has the City pointed to any historical problems with sexual offenders committing sexual crimes near where they attend therapy that would justify imposing dimensional requirements on those facilities at large. Moreover, there is no evidence showing that sexual offenders will be attending treatment during times when schools are in session or a child care center is operating. Most sexual offender treatment groups meet in the evening because sexual offenders, like the rest of the community, have jobs that they attend during the day. Even if a sexual offender has a therapy session during the day, that person is at the facility for no more than a few hours and then has no reason to stay at the facility.

There are not restrictions against sexual offenders going to grocery stores or doctor's offices that are located near schools, child care centers, parks, or youth associations. In fact, there are criminal laws already preventing sexual offenders from loitering near where children congregate. *See Fla. Stat. § 856.022* (providing criminal penalties for loitering by sexual offenders near children). It is overly burdensome to now impose the same restrictions on a SOTC because of its work to aid the community when there is no showing of the adverse effects claimed to justify the dimensional restrictions in the Proposed Ordinance.

The Proposed Ordinance is not rationally related to a legitimate governmental purpose. It seems that the push for the Proposed Ordinance is based on the unfounded fears of residents of the City. “[M]ere negative attitudes, or fear, unsubstantiated by factors which are properly cognizable in a zoning proceeding, are not permissible bases for treating . . .” one use from other similar uses. *Cleburn*, 473 U.S. at 448; *Palmore v. Sidoti*, 466 U.S.

429, 433 (1984); *Romer v. Evans*, 517 U.S. 620, 634-35 (1996). It is this kind of unfounded, “invidious discrimination” that will not survive an equal protection challenge because it is not rationally related to a legitimate governmental purpose. *Cleburn*, 473 U.S. at 446-47. Moral disapproval of a group cannot be a legitimate governmental interest. *Lawrence v. Texas*, 539 U.S. 558, 582-83 (2003).

The purpose of the Proposed Ordinance is to protect children from sexual offenders repeating sexual crimes in areas near where sexual offenders seek therapy. The dimensional requirements put in place by the proposed ordinance do not further that goal. *See United States Dep’t of Agric. v. Moreno*, 413 U.S. 528, 537-38 (1973) (striking down portions of the Food Stamp Act meant to reduce welfare fraud because the statutory provisions would not actually prevent welfare fraud). Further, there is no empirical evidence that shows there is even a problem with the recidivism rates of sexual offenders. *Bannaum, Inc. v. Louisville*, 958 F.2d 1354, 1360-61 (6th Cir. 1992) (finding an equal protection clause violation because there was no evidence showing a likelihood of crime emanating out of a certain land use); *see also* Exhibits “J,” “K,” and “L.” In fact, the Proposed Ordinance is more likely to have the negative effect of preventing sex offenders from access to therapy and increasing recidivism rates than protect the public health, safety, and welfare. *See* “Exhibit M.”

B. As-Applied Constitutionality

The Proposed Ordinance may also run afoul of the Equal Protection Clause by its application specifically to the ITM Group. If other facilities providing therapy to those registered as sexual offenders are not subject to the provisions of the Proposed Ordinance,

but the ITM Group is singled out for disparate treatment, the ordinance is unconstitutional as-applied to the ITM Group. Moreover, almost every other facility providing therapy to even one sexual offender will now be in violation of the Code because of most facilities' close proximity to residential areas, child care centers, schools, and youth facilities.

The City does not impose the same restrictions on SOTC as it does on other facilities providing therapy, whose clients may very well include sex offenders. Other therapists who treat sex offenders, even if a sex offender seeks treatment on their own volition for some other mental health issues (i.e. depression, anxiety, etc.), are not required to be in the same zoning districts reserved for "Sexual Offender Treatment Centers." Facilities providing therapy to alcoholics are not restricted from being located near liquor stores because of the fact that alcoholics seek treatment from that facility. Moreover, other medical businesses and office uses may also see those registered as sex offenders on a regular basis, but are not subject to similar zoning restrictions. For the City to treat similarly situated groups differently, the Proposed Ordinance must have a rational relation to a legitimate governmental interest. If there is no rational relationship to the harm sought to be prevented, the Proposed Ordinance will be found to be unconstitutional.

C. Class of One

An Equal Protection claim can be successfully brought when a plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment. *Willowbrook v. Olech*, 528 U.S. 562, 564 (2000). In *Willowbrook*, the court held that a "class of one" claim was properly brought when the local municipality intentionally demanded a wider easement than

necessary to connect the plaintiff's property to the municipal water supply that was irrational and wholly arbitrary. *Id.* at 565. This reasoning is very similar to the “invidious discrimination” as set forth in *Cleburn*.

The “class of one” analysis addresses when a local government intentionally singles out a specific person or entity for disparate treatment instead of singling out a group. Here, the Proposed Ordinance is addressed to all facilities that provide therapy to sexual offenders. The ITM Group is the primary group that provides treatment to sexual offenders in Gainesville, Florida. The ITM Group is being singled out for the disparate treatment of the Proposed Ordinance because the Proposed Ordinance will likely not affect most other therapists in Gainesville.

IV. Substantive Due Process Concerns

A. Stigmatizing Effect of Classification

The 11th Circuit Court of Appeals acknowledges that the “sexual offender” classification carries a stigma with it, and that stigmatizing effect can constitute a deprivation of liberty under the Due Process clauses of both the Fifth and Fourteenth Amendments. *Kirby v. Siegelman*, 195 F.3d 1285 (11th Cir. 1999); *accord Neal v. Shimoda*, 131 F.3d 818, 828-30 (9th Cir. 1997). By labeling the ITM Group as a SOTC despite the fact that the treatment of sex offenders only makes up a small portion of its patients, the City is stigmatizing the ITM Group because of its work to aid the community. Moreover, there are other facilities providing therapy to sex offenders who are not classified as SOTC and not subject to the zoning restrictions, even though they may fall into the wide net cast by the Proposed Ordinance. *Moore v. East Cleveland*, 431 U.S. 494, 504-05 (1977).

The government must analyze three factors to determine how best to protect the due process rights of a person or entity when enacting an ordinance: (1) the private interest affected by the government action; (2) the risk of an erroneous deprivation of the private interest through the procedures used; and (3) the government's interest. *See generally Roe v. Farwell*, 999 F. Supp. 174, 195-99 (Mass. D. 1998) (performing the due process analysis of a sexual offender registration law). To comply with the Due Process Clause of the Fourteenth Amendment of the United States Constitution and Article I, Section 9 of the Florida Constitution, the Proposed Ordinance must give the ITM Group, and other facilities providing therapy to sexual offenders, an opportunity to be heard. The Proposed Ordinance must not violate constitutionally protected fundamental rights. By not specifying the exact factors relevant to either granting or denying an SUP for a SOTC, it deprives all therapists of their procedural and substantive due process rights. *See Fla. Action Committee, Inc.*, 2016 U.S. Dist. LEXIS 79189 at *20. Moreover, the process itself may cause a chilling effect on the inclination of any therapist to come forward to voice his or her concerns for fear of being targeted by the Proposed Ordinance.

The Proposed Ordinance's effect of disclosing each patient's reasons for seeking therapy, even if unrelated to prior sexual offenses, violates his or her privacy rights under the Florida Constitution. Mandatory inquiry into treatment provider's client lists run afoul of the patient-client confidentiality privilege. By forcing patients to disclose to the City their reasons for seeking therapy, as well as any other mental health issues they may have, violates the privacy provisions of Article I, Section 23 of the Florida Constitution. The blanket provisions of the Proposed Ordinance operates to allow the City to now gather more

private information of sexual offenders, even when they seek medical and mental health treatment. It is not too costly of a burden for the City to narrowly tailor the language in the Proposed Ordinance so as not to violate these constitutional privacy rights.

B. Right to Provide Medical Treatment

Every person has the right to be let alone and free from government intrusion into the person's private life. This fundamental right is encompassed by both the Due Process Clause in the Fourteenth Amendment to the United States Constitution as well as Article I, Section 23 of the Florida Constitution. It is unconstitutional to prohibit women from seeking counseling from a doctor related to abortion because it overly burdens a fundamental, constitutional right. *Webster v. Reprod. Health Servs.*, 492 U.S. 490, 550-51 (1989). If sexual offenders are seeking treatment pursuant to a court order, it may be a violation of that court order for the government to restrict where that sexual offender can now receive treatment. Moreover, if the Proposed Ordinance effectively prevents SOTC from providing treatment, it also prevents all sexual offenders from seeking treatment from facilities providing therapy. The Proposed Ordinance has the effect of hampering the recovery of sexual offenders through the prohibitions placed on SOTC.

CONCLUSION

The Proposed Ordinance should be modified because of the potential unconstitutionality of its language, as well as the unconstitutional effects of its enactment. The analysis of the Proposed Ordinance should address the following: (1) its vagueness concerns; (2) its First Amendment concerns; (3) its equal protection concerns; and (4) its procedural and substantive due process concerns.

To address these concerns, it will take a robust and in depth discussion between City Officials, therapists, patients, and the community at large. In an effort to create an ordinance that protects constitutional rights, it must be as detailed as possible. The harmful secondary effects of SOTC must be expressly set forth and substantiated by evidence so that the Proposed Ordinance will be tailored to address those effects. Anything less than that analysis results in an unconstitutional ordinance.

ORDINANCE NO.

An ordinance of the City of Gainesville, Florida, amending the Land Development Code (Chapter 30 of the City of Gainesville Code of Ordinances) by deleting the definition of Rehabilitation Centers and adding a definition for Sexual Offender Treatment Centers; by deleting Rehabilitation Centers as a permitted use in the following zoning districts: Office-Residential District (OR), General Office District (OF), General Business District (BUS), Mixed-Use Low-Intensity District (MU-1), Mixed-Use Medium-Intensity District (MU-2), Urban Mixed-Use District 1 (UMU-1), Urban Mixed-Use District 2 (UMU-2), Central City District (CCD), Business Industrial District (BI), Limited Industrial District (I-1), and Medical Services District (MD); by adding Sexual Offender Treatment Centers as a permitted use by Special Use Permit in the following zoning districts: General Business District (BUS), Mixed-Use Medium-Intensity District (MU-2), Central City District (CCD), Business Industrial District (BI), and Medical Services District (MD); providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing an immediate effective date.

WHEREAS, Sections 163.3167 and 163.3177(1), Florida Statutes, requires the City of Gainesville to maintain a Comprehensive Plan to guide the future development and growth of the city by providing the principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental and fiscal development of the city; and

WHEREAS, the City of Gainesville is required by Section 163.3202, Florida Statutes, to adopt or amend and enforce land development regulations that are consistent with and implement the Comprehensive Plan, and that are combined and compiled into a single land development code for the city (the City of Gainesville’s Land Development Code is Chapter 30 of the Code of Ordinances); and

WHEREAS, notice was given as required by law that the text of the Land Development Code of the City of Gainesville, Florida, be amended; and

WHEREAS, the City Plan Board, which acts pursuant to the authority granted in Section 4.02 of the Charter Laws of the City of Gainesville and which acts as the local planning agency

1 pursuant to Section 163.3174, Florida Statutes, held a public hearing on _____,
 2 and voted to recommend that the City Commission approve this text change to the Land
 3 Development Code; and

4 **WHEREAS**, an advertisement no less than two columns wide by ten inches long was
 5 placed in a newspaper of general circulation and provided the public with at least seven days'
 6 advance notice of this ordinance's first public hearing to be held by the City Commission in the
 7 City Hall Auditorium, located on the first floor of City Hall in the City of Gainesville; and

8 **WHEREAS**, a second advertisement no less than two columns wide by ten inches long
 9 was placed in the aforesaid newspaper and provided the public with at least five days' advance
 10 notice of this ordinance's second public hearing to be held by the City Commission; and

11 **WHEREAS**, public hearings were held pursuant to the notice described above at which
 12 hearings the parties in interest and all others had an opportunity to be and were, in fact, heard.

13 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
 14 **CITY OF GAINESVILLE, FLORIDA:**

15 **Section 1.** Subsection 30-23(c) of the Land Development Code is amended as follows.
 16 Except as amended herein, the remainder of Subsection 30-23(c) remains in full force in effect.

17 **Sec. 30-23(c). - Definitions.**

18
 19 ~~*Rehabilitation center* means a facility providing professional care, nonresident only, for those~~
 20 ~~requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse,~~
 21 ~~social disorders, physical disabilities, mental retardation or similar problems.~~

22
 23 *Sexual offender treatment center* means an out-patient facility that provides professional therapy,
 24 counseling or other rehabilitative services to individuals or groups that are either registered
 25 sexual offenders as defined in Section 943.0435, Florida Statutes, or registered sexual predators
 26 as defined in Section 775.21, Florida Statutes.
 27

1 ~~Social service home or halfway house means a facility providing professional care, resident or~~
 2 ~~nonresident, for those requiring therapy, counseling or other rehabilitative services related to~~
 3 ~~drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar~~
 4 ~~problems that provides professional residential care for individuals or groups needing therapy,~~
 5 ~~counseling or other rehabilitative services related to mental or physical disabilities, addictions,~~
 6 ~~social disorders or similar issues, not including sexual offender treatment centers.~~

7
 8 **Section 2.** Subsections 30-59(c) and (e) of the Land Development Code are amended as
 9 set follows. Except as amended herein, the remainder of Subsections 30-59(c) and (e) remains in
 10 full force and effect.

11 **Sec. 30-59. – Office districts (OR and OF).**

12 (c) *Permitted uses, OR district (office-residential district).*

SIC	Use	Conditions
	USES BY SPECIAL USE PERMIT	
	Rehabilitation centers	In accordance with article VI.

13

14 (e) *Permitted uses, OF (general office district).*

SIC	Use	Conditions
	USES BY SPECIAL USE PERMIT	
	Rehabilitation centers	In accordance with article VI.

15

16 **Section 3.** Subsection 30-61(c) of the Land Development Code is amended as follows.
 17 Except as amended herein, the remainder of Subsection 30-61(c) remains in full force and effect.

18 **Sec. 30-61. – General business district (BUS).**

1 (c) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
MG-80	Health services	Including nursing and personal care facilities (GN-805) in accordance with article VI, and excluding hospitals (GN-806) and sexual offender treatment centers <u>rehabilitation centers</u>
MG-83	Social services	Including day care as defined in article II and in accordance with article VI, <u>and</u> excluding sexual offender treatment centers <u>rehabilitation centers, halfway houses, social service homes or halfway houses, and residences for destitute people as defined in this chapter</u> article II
	<u>USES BY SPECIAL USE PERMIT</u>	
	Rehabilitation centers <u>Sexual offender treatment centers</u>	In accordance with article VI

2

3 **Section 4.** Subsection 30-64(g) of the Land Development Code is amended as follows.

4 Except as amended herein, the remainder of Subsection 30-64(g) remains in full force and effect.

5 **Sec. 30-64. – Mixed use low intensity district (MU-1).**

6 (g) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
MG-80	Health services	Including nursing and intermediate care facilities in accordance with article VI when applicable, and excluding rehabilitation centers and hospitals (GN-806) <u>and sexual offender treatment centers</u>
MG-83	Social services	Including day care centers as defined in this chapter and in accordance with article VI, <u>and</u> excluding residential care (GN-836), sexual offender treatment centers <u>rehabilitation centers, halfway houses, social service homes or halfway</u>

		<u>houses</u> , and residences for destitute people as defined in this chapter
	USES BY SPECIAL USE PERMIT	
	Rehabilitation centers	In accordance with article VI

1

2 **Section 5.** Subsection 30-65(e) of the Land Development Code is amended as follows.

3 Except as amended herein, the remainder of Subsection 30-65(e) remains in full force and effect.

4 **Sec. 30-65. – Mixed use medium intensity district (MU-2).**

5 (e) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
MG-80	Health services	Excluding hospitals (GN-806) and including nursing and personal care facilities (GN-805) in accordance with article VI, and excluding <u>hospitals (GN-806) and sexual offender treatment centers</u>rehabilitation centers,
MG-83	Social services	Including day care centers as defined in this chapter and in accordance with article VI, <u>and excluding rehabilitation centers, halfway houses, social service homes, sexual offender treatment centers, social service homes or halfway houses, and residences for destitute people as defined in this chapter</u>
	USES BY SPECIAL USE PERMIT	
	Rehabilitation centers <u>Sexual offender treatment centers</u>	In accordance with article VI

6

1 **Section 6.** Subsection 30-65.1(c)(1) of the Land Development Code is amended as
 2 follows. Except as amended herein, the remainder of Subsection 30-65.1(c)(1) remains in full
 3 force and effect.

4 **Sec. 30-65.1. – Urban mixed-use district 1 (UMU-1).**

5 (c) *Permitted uses.*

6 (1) *Uses by right:*

SIC	Uses	Conditions
	Rehabilitation centers	In accordance with article VI

7

8 **Section 7.** Subsection 30-65.2(c)(1) of the Land Development Code is amended as
 9 follows. Except as amended herein, the remainder of Subsection 30-65.2(c)(1) remains in full
 10 force and effect.

11 **Sec. 30-65.2 – Urban mixed-use district (UMU-2).**

12 (c) *Uses.*

13 (1) Permitted uses by right are as follows:

SIC	Uses	Conditions
	Rehabilitation centers	In accordance with article VI

14

15 **Section 8.** Subsection 30-66(c) of the Land Development Code is amended as follows.
 16 Except as amended herein, the remainder of Subsection 30-66(c) remains in full force and effect.

17 **Sec. 30-66. – Central city district (CCD).**

18 (c) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
GN-839	Social services, not elsewhere classified	Excluding rehabilitation centers
	USES BY SPECIAL USE PERMIT:	
	Rehabilitation centers <u>Sexual offender treatment centers</u>	In accordance with article VI

1

2 **Section 9.** Subsection 30-67.1(c)(1) of the Land Development Code is amended as
 3 follows. Except as amended herein, the remainder of Subsection 30-67.1(c)(1) remains in full
 4 force and effect.

5 **Sec. 30-67.1. – Business industrial district (BI).**

6 (c) *Permitted uses.*

7 (1) ~~*Uses by right.*~~

SIC	Uses	Conditions
	<u>USES BY RIGHT:</u>	
	Rehabilitation centers	
	<u>USES BY SPECIAL USE PERMIT:</u>	
	<u>Sexual offender treatment centers</u>	<u>In accordance with Article VI</u>

8

1 **Section 10.** Subsection 30-68(c) of the Land Development Code is amended as follows.

2 Except as amended herein, the remainder of Subsection 30-68(c) remains in full force and effect.

3 **Sec. 30-68. – Warehousing and wholesaling district (W).**

4 (c) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
MG-80	Health services	Including nursing and intermediate care facilities in accordance with article VI where applicable, and excluding rehabilitation centers and hospitals (GN-806) <u>and sexual offender treatment centers</u>
MG-83	Social services	Including day care centers as defined in this chapter and in accordance with article VI, <u>and excluding sexual offender treatment centers, social service homes or halfway houses, rehabilitation centers, halfway houses, social service homes,</u> and residences for destitute people as defined in this chapter

5
6 **Section 11.** Subsection 30-69(c)(2) of the Land Development Code is amended as
7 follows. Except as amended herein, the remainder of Subsection 30-69(c)(2) remains in full
8 force and effect.

9 **Sec. 30-69. – Limited industrial district (I-1).**

10 (c) *Permitted uses.*

11 (2) *Uses by special use permit.* Any applicable conditions of Article VI shall be met. Uses
12 by special use permit, provided the requirements and conditions of article VI are met, if
13 applicable, and that the findings in section 30-233 are made, in accordance with the
14 procedures provided in section 30-204 of this chapter with the findings of section 30-
15 233:

16 h. ~~Rehabilitation centers.~~

17
18 **Section 12.** Subsection 30-74(c) of the Land Development Code is amended as follows.

19 Except as amended herein, the remainder of Subsection 30-74(c) remains in full force and effect.

1 **Sec. 30-74. – Medical services district (MD).**

2 (c) *Permitted uses.*

SIC	Uses	Conditions
	USES BY RIGHT:	
	Rehabilitation centers	In accordance with article VI
	USES BY SPECIAL USE PERMIT:	
	<u>Sexual offender treatment centers</u>	<u>In accordance with Article VI</u>

3

4 **Section 13.** Section 30-89 of the Land Development Code is amended as follows.

5 **Sec. 30-89. - Adult day care homes.**

6 (a) A home to be used as an adult day care home shall be an occupied dwelling in which one or
 7 more of the residents provides care or supervision for more than three natural persons, other
 8 than the residents requiring such care or supervision. The total number of natural persons
 9 who are cared for or supervised shall not exceed five (5) persons at any one time. In no event
 10 shall more than eight (8) natural persons, including the operator's own children under
 11 eighteen (18) years of age, be permitted at the home at any one time. Such use shall not
 12 include nursing and personal care facilities, schools, ~~rehabilitation centers~~, social service
 13 homes or halfway houses, or other similar activities or facilities which are not customarily
 14 incidental to residential use.

15 (b) There shall be no alteration or change to the outside appearance or character of the dwelling
 16 unit for which the permit is issued.

17 (c) No more than two (2) adult day care homes per block face shall be permitted.

18 (d) Such use shall be conducted in conformance with all applicable county, state and federal
 19 laws.

20

21 **Section 14.** Section 30-108 of the Land Development Code is amended as follows.

22 ~~**Sec. 30-108. – Rehabilitation centers.**~~

23 ~~(a) *Dimensional requirements.*~~

1 (1) Minimum lot area: 10,000 square feet.

2 (2) Minimum lot width at minimum front yard setback: 100 feet.

3 (3) Minimum yard setbacks:

4 a. Front: 25 feet.

5 b. Rear: 20 feet.

6 Except where rear yard abuts property in a residential district or property shown for
7 residential use on the land use element of the comprehensive plan: 35 feet.

8 c. Sides:

9 1. Street: 10 feet.

10 2. Interior: 20 feet.

11 Except where the side yard abuts property in a residential district or property
12 shown for residential use on the land use element of the comprehensive plan: 35
13 feet.

14 (b) ~~Spacing and location.~~ Rehabilitation centers shall not be located closer than 1,320 feet from
15 any other rehabilitation center, halfway house or social service home and shall not be located
16 closer than 1,320 feet from any soup kitchen (food distribution center for the needy) or
17 residence for destitute people or combination thereof. All measurement shall be from the
18 nearest property line of any of the above listed facilities to the nearest property line of the
19 proposed facility.

20 (c) ~~Buffer.~~ Rehabilitation centers shall comply with the buffer requirements of offices, schools
21 and places of religious assembly in accordance with the landscape ordinance.

22 (d) ~~Development plan approval.~~ Development plan approval, in accordance with the
23 requirements of Article VII, is required prior to the issuance of a building permit for all
24 rehabilitation centers.

25 **Sec. 30-108. – Sexual offender treatment center.**

26 (a) Dimensional requirements. All principal and accessory structures for sexual offender
27 treatment centers shall be located and constructed in accordance with the following
28 requirements:

29 (1) Minimum lot area: 10,000 square feet.

30 (2) Minimum lot width at minimum front yard setback: 100 feet.

31 (3) Minimum yard setbacks:

32 a. Front: 25 feet.

33 b. Rear: 20 feet.

34 c. Sides:

35 1. Street: 10 feet.

36 2. Interior: 20 feet.

1 (b) Spacing and location requirements. Sexual offender treatment centers shall be located at
 2 least 1,320 feet from any other sexual offender treatment center, social service home or
 3 halfway house, food distribution center for the needy, residence for destitute people or
 4 combination thereof.

5 Sexual offender treatment centers shall be located at least 1000 feet from any child care
 6 center, public or private school duly accredited and offering any grades from kindergarten
 7 through twelfth grade, public park, youth association and 400 feet from any residential
 8 zoning district.

9 All measurements shall be measured by a straight line from the nearest property line of any
 10 of the above-listed facilities to the nearest property line of the proposed facility.

11 (c) Development plan approval. Development plan approval, in accordance with the
 12 requirements of Article VII, is required prior to the issuance of a building permit for all
 13 sexual offender treatment centers.

14
 15 **Section 15.** Section 30-109 of the Land Development Code is amended as follows.

16 **Sec. 30-109. – Social service homes and halfway houses.**

17 (a) *Dimensional requirements.* All principal and accessory structures for social service homes
 18 and halfway houses shall be located and constructed in accordance with the following
 19 requirements:

20 (1) Minimum lot area: 10,000 square feet.

21 (2) Minimum lot width at minimum front yard setback: 100 feet.

22 (3) Minimum yard setbacks:

23 a. Front: 25 feet.

24 b. Rear: 20 feet.

25 Except where the rear yard abuts property in a residential district or property shown
 26 for residential use on the land use element of the comprehensive plan: 35 feet.

27 c. Side:

28 1. Street: 10 feet.

29 2. Interior: 20 feet.

30 Except where the side yard abuts property in a residential district or property shown
 31 for residential use on the land use element of the comprehensive plan: 35 feet.

32 (b) *Spacing and location requirements.* Social service homes and/or halfway houses shall not be
 33 located ~~closer than~~ at least 1,320 feet from any other social service home, or halfway house,
 34 community residential homes for 21 persons or more or rehabilitation center and shall not be
 35 located closer than 2,640 feet from any soup kitchen sexual offender treatment center, food
 36 distribution center for the needy, or residence for destitute people or combination thereof. All

1 ~~measurement shall be from the nearest property line of any of the above-listed facilities to the~~
 2 ~~nearest property line of the proposed facility.~~

3 Social service homes and halfway houses shall be located at least 400 feet from any child
 4 care center, public or private school duly accredited and offering any grades from
 5 kindergarten through twelfth grade, public park, youth association or any residential zoning
 6 district.

7 All measurements shall be measured by a straight line from the nearest property line of any
 8 of the above-listed facilities to the nearest property line of the proposed facility.

9 ~~(e) *Buffer requirements.* Social service homes and halfway houses shall comply with the~~
 10 ~~requirements of offices, schools and places of religious assembly in accordance with Article~~
 11 ~~VIII.~~

12 ~~(d)~~(c) *Development plan approval.* Development plan approval, in accordance with the
 13 requirements of Article VII, is required prior to the issuance of a building permit for all social
 14 service homes and halfway houses.

15
 16 **Section 16.** Section 30-110 of the Land Development Code is amended as follows.

17 Except as amended herein, the remainder of Section 30-110 remains in full force and effect.

18 **Sec. 30-110. - Residences for destitute people.**

19 Except as provided as an accessory use to places of religious assembly, residences for destitute
 20 people shall be regulated as follows:

21 (a) *Spacing and location.* Residences for destitute people shall ~~not~~ be located at least ~~closer than~~
 22 ~~one thousand three hundred twenty (1,320)~~ feet from any social service home, or halfway
 23 ~~house or rehabilitation center~~ and at least ~~shall not be closer than two thousand (2,000)~~ feet
 24 from any other residence for destitute people, food distribution center for the needy or
 25 combination thereof. All measurements shall be measured from the nearest property line of
 26 the above-listed facilities to the nearest property line of the proposed facility.

27
 28 **Section 17.** Section 30-111 of the Land Development Code is amended as follows.

29 Except as amended herein, the remainder of Section 30-111 remains in full force and effect.

30 **Sec. 30-111. - Food distribution centers for the needy.**

31 Except ~~when~~as provided as an accessory use to places of religious assembly, food distribution
 32 centers for the needy shall be regulated as follows:

1 (2) *Distance requirements.* Food distribution centers for the needy shall be located at least 2,000
 2 feet from any other ~~The distance between any food distribution center for the needy and any~~
 3 ~~other~~ food distribution center for the needy or residence for destitute people, or facility
 4 combining both uses, and at least 1,320 feet from any social service home or halfway house,
 5 shall be 2,000 feet. ~~The distance between any food distribution center for the needy and any~~
 6 ~~social service home, halfway house or rehabilitation center shall be 1,320 feet.~~ All distance
 7 measurements shall be from the nearest property line of any existing facility to the nearest
 8 property line of the proposed facility. However, there shall be no food distribution center for
 9 the needy located in the area described in Appendix D located at the end of this chapter, ~~and~~
 10 ~~as shown on the map maintained in the department of community development.~~

11
 12 **Section 18.** Subsection 30-332(c) of the Land Development Code is amended as follows.

13 Except as amended herein, the remainder of Subsection 30-332(c) remains in full force and
 14 effect.

15 **Sec. 30-332. - Required number of parking spaces.**

	Use	Number of Vehicle Spaces	Number of Bicycle Spaces
(c)	<i>Business uses:</i>		
	<i>Professional services:</i>		
	Rehabilitation centers, Social service homes and halfway houses	1 per 500 square feet of floor area	10 percent of required number of vehicle parking

16

17 **Section 19.** Appendix A. – Special Area Plans, Section 7. - Special Area Plan for

18 Southwest 13th Street, Subsection (i) of the Land Development Code is amended as follows.

19 Except as amended herein, the remainder of Appendix A., Section 7., Subsection (i) remains in
 20 full force and effect.

21 (i) *Prohibited uses.* The following land uses shall be prohibited within the Corridor:

Use	SIC Code

Rehabilitation centers	N/A
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Section 20. Appendix A. – Special Area Plans, Section 8. – Special Area Plan Southeast Gainesville Renaissance Initiative Area, Subsection (d)(9) of the Land Development Code is amended as follows. Except as amended herein, the remainder of Appendix A., Section 8., Subsection (d)(9) remains in full force and effect.

(d) *General Regulations.*

(9) *Prohibited Uses.* The below uses are prohibited in SEGRI. No exceptions or waivers are permitted for these uses:

~~Rehabilitation Centers~~

Section 21. It is the intent of the City Commission that the provisions of Sections 1 through 20 of this ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the sections and paragraphs of the Code of Ordinances may be renumbered or relettered in order to accomplish such intent.

Section 22. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application hereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this ordinance are declared severable.

Section 23. All ordinances or parts of ordinances in conflict herewith are to the extent of such conflict hereby repealed.

Section 24. This ordinance shall become effective immediately upon adoption.

1

2

3 **PASSED AND ADOPTED** this ____ day of _____, 2016.

4

5

6

7

LAUREN POE
MAYOR

8

9

10

11 Attest:

Approved as to form and legality:

12

13

14

KURT M. LANNON
CLERK OF THE COMMISSION

NICOLLE M. SHALLEY
CITY ATTORNEY

17

18 This ordinance passed on first reading this ____ day of _____, 2016.

19

20 This ordinance passed on second reading this ____ day of _____, 2016.



Planning and Development Services Department
Planning Division
P.O. Box 490, Station 12
Gainesville, FL 32627-0490
P: (352) 334-5023
F: (352) 334-3259

Zoning Compliance Approval Form

For Office Use Only

ZCP #: EC-15-00368 Date: 10/13/2015

ZCP Approved ZCP Approved with Conditions ZCP Denied

Received Stamp

OCT 13 2015

A Zoning Compliance Approval Form must be completed for the following: Zoning approval for non-residential uses, Building Inspections Department approval (Change of Use or Occupancy Permit, if needed), and Business License Tax. Please be aware that Day Care Centers, Assisted Living Facilities, Group Homes and Businesses moving into new location may require additional permits and/or approvals, please contact the Building Inspections Department at (352) 334-5050.

Please read and initial the following statements:

- BS I understand that I must Comply with the Current Florida Building Code through the Building Inspections Department (352) 334-5050, the Current Florida Fire Prevention Code through the Gainesville Fire Rescue Risk Reduction Bureau (352) 334-5065, and obtain any necessary permits for Construction and Remodeling.
- BS I understand that I must obtain a Local Business Tax Receipt (Business License) through the Finance Department (352) 334-5024.
- BS I understand that falsifying any information may result in my Zoning Compliance Approval being revoked.

After completing this page, forward the document to the Planning Department (drop off, mail, fax, or e-mail) for processing. After the Zoning Compliance Approval Form is processed, it will be returned to the Applicant as requested at the bottom of this page of the application.

Part I - To be completed by Applicant

New Application Renewing Application for Business License

Name of Business: The ITM Group

Address of Business: 1208 NW 6th Street

City: Gainesville State: FL Zip Code: 32601

Business Phone #: (352) 379-2829 Fax: (352) 379-2843

Proposed Use of Premises: Counseling Services including Human Relations + Substance Abuse Counseling

Applicants Name: Brandi Smith

Mailing Address: 225 SW 7th Ter

City: Gainesville State: FL Zip Code: 32601

Business Phone #: (352) 379-2829 E-Mail Address: bsmith@itmflorida.com

Signature of Applicant: Brandi Smith Date: 10/13/15

Return to Applicant by: Pick up at Thomas Center Regular Mail Fax E-mail

<http://www.cityofgainesville.org/PlanningDepartment.uspx>



Planning and Development Services Department
Planning Division
P.O. Box 490, Station 12
Gainesville, FL 32627-0490
P: (352) 334-5023
F: (352) 334-3259

Zoning Compliance Approval Form

Part 2 – To be completed by staff

Planning Division Analysis

Initial Review Date: 10/13/2015 Tax Parcel Number: 09695 - 000 - 000

Map Number: 3850 Zoning District: OF SIC Code: 28049

Murphy Wellfield Protections Permit

Located in Wellfield Zone: [] Yes [X] No Primary Secondary Tertiary
Permit Required: EXEMPTION WELLFIELD SPECIAL USE PERMIT WELLFIELD PERMIT
Conditions or Comments: _____

Special Overlay Plans or Districts: [X] Yes [] No
[X] Central Corridors [] NW 39th Avenue [] Corporate Park
[] Traditional City [] University Heights [] SW 13th Street
[] Five Points [] Gateway Street [] Special Environmental Overlay
[] Idylwild-Serenola [] College Park [] Significant Ecological Communities

Parking Standard for Zoning District
Parking Standard, Vehicle: 1 per 150SF Bicycles: 10% of Vehicle Standard

Comments: _____

SIGNATURE/PLANNING DIVISION Michael J. Hoge DATE: 10/13/2015



Planning & Development Services

Station 11
PO Box 490
Gainesville, FL 32627-0490
352-334-5022
352-334-2648 (Fax)

www.cityofgainesville.org/planningdepartment

March 22, 2016

Ms. Brandi Smith
The ITM Group
225 South West 7th Terrace
Gainesville, Florida 32601
Subject: Clarification of ZC-15-00368

Dear Ms. Smith:

The purpose of this letter is to clarify what uses are allowed by ZC-15-00368 (See attached Zoning Compliance Form). Based on a March 16, 2016 conversation that I had with you, it appeared that you were contemplating some uses of the property that are outside the scope of the zoning compliance approval that you were given for the ITM Group. Please be aware that the use that Staff approved are those uses listed in the Standard Industrial Classification Manual (1987) IN 8049 (See attached list and description).

The zoning compliance does not allow uses that fall within the category of a rehabilitation center. A rehabilitation center is defined as, "a facility providing professional care, nonresident only, for those requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar problems." As you may be aware, based on your August 8, 2015 First Step meeting, the rehabilitation center use will need a Special Use Permit within the General Office zoning district.

If you need further clarification or have questions you may contact me at (352) 393-8698.

Sincerely,

Ralph Hilliard
Planning Manager

CC: Kyle Benda, Knellinger Law
Daniel Nee, City Attorney's Office

STANDARD INDUSTRIAL CLASSIFICATION

Industry Group 804: Offices And Clinics Of Other Health Practitioners

8049 Offices and Clinics of Health Practitioners, Not Elsewhere Classified

Establishments of health practitioners engaged in the practice of health fields, not elsewhere classified. Practitioners may or may not be licensed or certified, depending on the State in which they practice. Establishments operating as clinics of health practitioners, not elsewhere classified, are included in this industry.

Acupuncturists, except M.D.: offices of

Audiologists, offices of

Christian science practitioners, offices of

Dental hygienists, offices of

Dieticians, offices of

Hypnotists, offices of

Inhalation therapists, registered

Midwives, offices of

Naturopaths, offices of

Nurses, registered and practical: offices of, except home health

Nutritionists, offices of

Occupational therapists, offices of

Paramedics, offices of

Physical therapists, offices of

Physicians'assistants, offices of

Psychiatric social workers, offices of

Psychologists, clinical offices of

Psychotherapists, except M.D.: offices of

Speech clinicians, offices of

Speech pathologists, offices of

RE: Zoning Compliance Permit ZC-15-368

Shalley, Nicolle M. [shalleynm@cityofgainesville.org]

Sent: Monday, April 04, 2016 6:04 PM

To: Kyle Benda

Cc: Hilliard, Ralph W. [hilliardrw@cityofgainesville.org]

Hello Mr. Benda – We are in receipt of your correspondence and my Office is meeting with Planning Staff on Wednesday morning to further discuss this matter.

Nicolle M. Shalley

City Attorney

City of Gainesville

352-393-8747 (phone)

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From: Kyle Benda [mailto:benda@knellingerlaw.com]

Sent: Friday, April 01, 2016 2:33 PM

To: Legal

Subject: Zoning Compliance Permit ZC-15-368

Hello Ms. Shalley,

I sent a letter to your office on March 25, 2016 concerning your office's review of zoning compliance permit number ZC-15-368. I would usually wait to allow you more time to respond to that letter, but my client is under urgent time limitations related to its contracts to provide counseling services to some of its larger, institutional clients.

We need assurances that the ITM Group can continue under the current provisions of its permit. I would like to discuss your review of the permit this coming Monday if at all possible. Thank you for your consideration in this matter and I look forward to speaking with you.

Sincerely,

Kyle Benda

Attorney At Law

Law Office of Knellinger, Jacobson & Associates

2815 N.W. 13th Street | Bank of America Building, Suite 305 | Gainesville, FL 32609

Tel: (352) 373-3334 | Fax: (352) 376-1214 | Site: www.LawyerGainesville.com

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*****EXHIBIT D*****

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LAW OFFICE OF
KNELLINGER, JACOBSON & ASSOCIATES

2815 NORTHWEST THIRTEENTH STREET • BANK OF AMERICA BUILDING, SUITE 305 • GAINESVILLE, FLORIDA 32609

RICHARD M. KNELLINGER, SHAREHOLDER
JUSTIN D. JACOBSON, SHAREHOLDER
LAUREN N. RICHARDSON, LL.M., ASSOCIATE
KYLE J. BENDA, ASSOCIATE

WWW.FAMILYANDBUSINESSLAW.COM
INFO@KNELLINGERLAW.COM
TELEPHONE (352) 373-3334
FACSIMILE (352) 376-1214

March 25, 2016

Nicolle M. Shalley, Esq.
City of Gainesville, City Attorney
P.O. Box 490
Station 46
32627-0490

Dear Ms. Shalley:

We have been retained by the ITM Group in regard to the approval by the City of Zoning Compliance Permit Number ZC-15-368, issued on October 13, 2015. Our client received written confirmation from Andrew Persons that he has referred review of this permit to your office on March 18, 2016, commenting that the City wishes to reverse its position on this permit. This letter constitutes a protest to the possible action of the City to retroactively prevent the ITM Group from using its property as contemplated in the approved permit.

Brandi Smith, Fiscal and Forensic Manager for the ITM Group, discussed with the Planning Department what uses might be allowed in the general office zoning district. Ms. Smith was advised by the City that a mental health counseling office would not require a Special Use Permit so long as substance abuse counseling was not the primary service provided by the ITM Group.

The proposed use of the premises contemplated in the permit was described as "counseling services including human relations and substance abuse counseling." In reliance on the advice of the City and the receipt of the approved permit, the ITM Group purchased a \$425,000 building and have nearly completed renovations on the property. Additionally, the ITM Group will have its move to the new location completed on or about April 15, 2016.

The ITM Group is committed to provide the same counseling services as described in the approved permit. It is our understanding that the City's position is the permit may have been approved by mistake. If so, this was not our client's mistake, and we do not see how it was a mistake at all.

It is also our understanding that part of the motivation of the City to review the permit was the concern of a neighboring mental health counselor that there would be counseling of persons classified as sexual offenders. Many counselors can and probably do offer those kinds of services, and there is no evidence that providing counseling for sexual offenders or substance abusers threatens the public health, safety, or welfare.

LAW OFFICE OF
KNELLINGER, JACOBSON & ASSOCIATES

2815 NORTHWEST THIRTEENTH STREET • BANK OF AMERICA BUILDING, SUITE 305 • GAINESVILLE, FLORIDA 32609

RICHARD M. KNELLINGER, SHAREHOLDER
JUSTIN D. JACOBSON, SHAREHOLDER
LAUREN N. RICHARDSON, LL.M., ASSOCIATE
KYLE J. BENDA, ASSOCIATE

WWW.FAMILYANDBUSINESSLAW.COM
INFO@KNELLINGERLAW.COM
TELEPHONE (352) 373-3334
FACSIMILE (352) 376-1214

Further, there is no special permit required for such counseling and it should not be used as an excuse to deny our client's legal use of its property. If the City wishes to create a special classification, it cannot do so retroactively. There are no such current restrictions on our client's use of their property under the current permit.

If the City were to revoke our client's permit, it could cost our client hundreds of thousands of dollars in damages for which the City would be responsible pursuant to the Bert Harris Act. In addition, the City's proposed action has a chilling effect on our client's current and future contracts. Our client will continue to operate under its contracts to provide counseling for sexual offenders, substance abuse, and other services permitted under the existing permit in an effort to mitigate damages to the City.

Our clients have also received a letter from the Planning Department on March 22, 2016, which is enclosed with this correspondence. I would appreciate the opportunity to discuss this with you if you feel that there is any danger of the City's unilateral action to revoke our client's permit. Thank you for your kind consideration. I look forward to speaking with you.

Sincerely,

Kyle J. Benda, Esq.
Knellinger, Jacobson & Associates
2815 NW 13th Street, Suite 305
Gainesville, Florida 32609
(352) 373-3334
benda@knellingerlaw.com

Benda

From: Shalley, Nicolle M. <shalleynm@cityofgainesville.org>
Sent: Monday, April 04, 2016 6:05 PM
To: 'benda@knellingerlaw.com'
Cc: Hilliard, Ralph W.
Subject: RE: Zoning Compliance Permit ZC-15-368

Hello Mr. Benda – We are in receipt of your correspondence and my Office is meeting with Planning Staff on Wednesday morning to further discuss this matter.

Nicolle M. Shalley
City Attorney
City of Gainesville
352-393-8747 (phone)

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From: Kyle Benda [<mailto:benda@knellingerlaw.com>]
Sent: Friday, April 01, 2016 2:33 PM
To: Legal
Subject: Zoning Compliance Permit ZC-15-368

Hello Ms. Shalley,

I sent a letter to your office on March 25, 2016 concerning your office's review of zoning compliance permit number ZC-15-368. I would usually wait to allow you more time to respond to that letter, but my client is under urgent time limitations related to its contracts to provide counseling services to some of its larger, institutional clients.

We need assurances that the ITM Group can continue under the current provisions of its permit. I would like to discuss your review of the permit this coming Monday if at all possible. Thank you for your consideration in this matter and I look forward to speaking with you.

Sincerely,

Kyle Benda
Attorney At Law

Law Office of Knellinger, Jacobson & Associates
2815 N.W. 13th Street | Bank of America Building, Suite 305 | Gainesville, FL 32609

Tel: (352) 373-3334 | Fax: (352) 376-1214 | Site: www.LawyerGainesville.com

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Alvin Butler, LMHC ♦ Harry Spears, LMHC

April 1, 2016

Ralph Hilliard,

These prospective locations are being submitted to the City Zoning authorities on behalf of The ITM Group. We are provisionally sending these tentative locations as alternative places to provide outpatient sexual offender treatment during our present period of waiting to clarify how to proceed with our objective to do our intended work at the 1208 NW 6th Street location. This effort represents our effort to amicably work out a solution to our current differences. Thank you for your prompt attention to this matter.

Sincerely,

Brandi Smith

225 SW 7th Terrace • Gainesville, Florida 32601
352-379-2829 • 352-379-2843 Fax
itmflorida.com

EXHIBIT E



Planning and Development Services Department
 Planning Division
 P.O. Box 490, Station 12
 Gainesville, FL 32627-0490
 P: (352) 334-5023
 F: (352) 334-3259

Zoning Compliance Approval Form

For Office Use Only

ZCP #: _____ Date: 1/1

ZCP Approved ZCP Approved with Conditions ZCP Denied

Received Stamp

A Zoning Compliance Approval Form must be completed for the following: Zoning approval for non-residential uses, Building Inspections Department approval (Change of Use or Occupancy Permit, if needed), and Business License Tax. **Please be aware that Day Care Centers, Assisted Living Facilities, Group Homes and Businesses** moving into new location may require additional permits and/or approvals, please contact the Building Inspections Department at (352) 334-5050.

Please read and initial the following statements:

- TS I understand that I must Comply with the Current Florida Building Code through the Building Inspections Department (352) 334-5050, the Current Florida Fire Prevention Code through the Gainesville Fire Rescue Risk Reduction Bureau (352) 334-5065, and obtain any necessary permits for Construction and Remodeling.
- HS I understand that I must obtain a Local Business Tax Receipt (Business License) through the Finance Department (352) 334-5024.
- HS I understand that falsifying any information may result in my Zoning Compliance Approval being revoked.

After completing this page, forward the document to the Planning Department (drop off, mail, fax, or e-mail) for processing. After the Zoning Compliance Approval Form is processed, it will be returned to the Applicant as requested at the bottom of this page of the application.

Part 1 – To be completed by Applicant

New Application Renewing Application for Business License

Name of Business: The ITM Group (itmflorida.com)

Address of Business: 1212 NW 12th Avenue (zoned OR)

City: Gainesville State: FL Zip Code: 32601

Business Phone #: (352) 379-2829 Fax: (352) 379-2843

Proposed Use of Premises: Mental Health Counseling - human relations (including offender Tx)

Applicants Name: Harry Spears (No substance abuse)

Mailing Address: 225 SW 7th Terrace

City: Gainesville State: FL Zip Code: 32601

Business Phone #: (352) 379-2829 E-Mail Address: bsmith@itmflorida.com

Signature of Applicant: [Signature] Date: 04/1/2016

Return to Applicant by: Pick up at Thomas Center Regular Mail Fax E-mail



Planning and Development Services Department
 Planning Division
 P.O. Box 490, Station 12
 Gainesville, FL 32627-0490
 P: (352) 334-5023
 F: (352) 334-3259

Zoning Compliance Approval Form

For Office Use Only	
ZCP #: _____	Date: <u>1/1</u>
<input type="checkbox"/> ZCP Approved	<input type="checkbox"/> ZCP Approved with Conditions
<input type="checkbox"/> ZCP Denied	

Received Stamp

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Please read and initial the following statements:

- I understand that I must Comply with the Current Florida Building Code through the Building Inspections Department (352) 334-5050, the Current Florida Fire Prevention Code through the Gainesville Fire Rescue Risk Reduction Bureau (352) 334-5065, and obtain any necessary permits for Construction and Remodeling.
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- I understand that falsifying any information may result in my Zoning Compliance Approval being revoked.

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Part 1 – To be completed by Applicant

New Application Renewing Application for Business License

Name of Business: The ITM Group (itmflorida.com)

Address of Business: 5200 Newberry Rd. (Zoned OF)

City: Gainesville State: FL Zip Code: 32607

Business Phone #: (352) 379-2829 Fax: (352) 379-2843

Proposed Use of Premises: Mental Health Counseling - human relations (including sex offender Tx) (No substance abuse)

Applicants Name: Harry Spears

Mailing Address: 225 SW 7th Terrace

City: Gainesville State: FL Zip Code: 32601

Business Phone #: (352) 379-2829 E-Mail Address: hsmith@itmflorida.com

Signature of Applicant: Harry Spears Date: 04/11/2016

Return to Applicant by: Pick up at Thomas Center Regular Mail Fax E-mail

<http://www.cityofgainesville.org/PlanningDepartment.aspx>



Planning and Development Services Department
 Planning Division
 P.O. Box 490, Station 12
 Gainesville, FL 32627-0490
 P: (352) 334-5023
 F: (352) 334-3259

Zoning Compliance Approval Form

For Office Use Only

ZCP #: _____ Date: 1/1

ZCP Approved ZCP Approved with Conditions ZCP Denied

Received Stamp

A Zoning Compliance Approval Form must be completed for the following: Zoning approval for non-residential uses, Building Inspections Department approval (Change of Use or Occupancy Permit, if needed), and Business License Tax. **Please be aware that Day Care Centers, Assisted Living Facilities, Group Homes and Businesses** moving into new location may require additional permits and/or approvals, please contact the Building Inspections Department at (352) 334-5050.

Please read and initial the following statements:

- IS I understand that I must Comply with the Current Florida Building Code through the Building Inspections Department (352) 334-5050, the Current Florida Fire Prevention Code through the Gainesville Fire Rescue Risk Reduction Bureau (352) 334-5065, and obtain any necessary permits for Construction and Remodeling.
- IS I understand that I must obtain a Local Business Tax Receipt (Business License) through the Finance Department (352) 334-5024.
- IS I understand that falsifying any information may result in my Zoning Compliance Approval being revoked.

After completing this page, forward the document to the Planning Department (drop off, mail, fax, or e-mail) for processing. After the Zoning Compliance Approval Form is processed, it will be returned to the Applicant as requested at the bottom of this page of the application.

Part 1 – To be completed by Applicant

New Application Renewing Application for Business License

Name of Business: The ITM Group (itmflorida.com)

Address of Business: 106 SW 10th Street

City: Gainesville State: FL Zip Code: 32601

Business Phone #: (352) 379-2829 Fax: (352) 379-2843

Proposed Use of Premises: Mental Health Counseling - human relations, substance abuse, ^{SP}offender TX

Applicants Name: Harry Spears

Mailing Address: 225 SW 7th Terrace

City: Gainesville State: FL Zip Code: 32601

Business Phone #: (352) 379-2829 E-Mail Address: bsmith@itmflorida.com

Signature of Applicant: [Signature] Date: 04/1/2016

Return to Applicant by: Pick up at Thomas Center Regular Mail Fax E-mail



Planning and Development Services Department
 Planning Division
 P.O. Box 490, Station 12
 Gainesville, FL 32627-0490
 P: (352) 334-5023
 F: (352) 334-3259

Zoning Compliance Approval Form

For Office Use Only

ZCP #: ZC-16-00119 Date: 4/16/2016
 ZCP Approved ZCP Approved with Conditions ZCP Denied

Received Stamp
 APR - 6 2016

A Zoning Compliance Approval Form must be completed for the following: Zoning approval for non-residential uses, Building Inspections Department approval (Change of Use or Occupancy Permit, if needed), and Business License Tax. **Please be aware that Day Care Centers, Assisted Living Facilities, Group Homes and Businesses** moving into new location may require additional permits and/or approvals, please contact the Building Inspections Department at (352) 334-5050.

Please read and initial the following statements:

- HS I understand that I must Comply with the Current Florida Building Code through the Building Inspections Department (352) 334-5050, the Current Florida Fire Prevention Code through the Gainesville Fire Rescue Risk Reduction Bureau (352) 334-5065, and obtain any necessary permits for Construction and Remodeling.
- HS I understand that I must obtain a Local Business Tax Receipt (Business License) through the Finance Department (352) 334-5024.
- HS I understand that falsifying any information may result in my Zoning Compliance Approval being revoked.

After completing this page, forward the document to the Planning Department (drop off, mail, fax, or e-mail) for processing. After the Zoning Compliance Approval Form is processed, it will be returned to the Applicant as requested at the bottom of this page of the application.

Part 1 - To be completed by Applicant

New Application Renewing Application for Business License

Name of Business: The ITM Group
 Address of Business: 116 NW 6th Street
 City: Gainesville State: FL Zip Code: 32601
 Business Phone #: (352) 379-2829 Fax: (352) 379-2843
 Proposed Use of Premises: Mental Health Counseling; human relations, substance abuse, sex offender Treatment
 Applicants Name: Harry Spears
 Mailing Address: 225 SW 7th Terrace
 City: Gainesville State: FL Zip Code: 32601
 Business Phone #: (352) 379-2829 E-Mail Address: bsmith@itmflorida.com
 Signature of Applicant: [Signature] Date: 5 Apr 2016

Return to Applicant by: Pick up at Thomas Center Regular Mail Fax E-mail

<http://www.cityofgainesville.org/PlanningDepartment.aspx>



Planning and Development Services Department
Planning Division
P.O. Box 490, Station 12
Gainesville, FL 32627-0490
P: (352) 334-5023
F: (352) 334-3259

Zoning Compliance Approval Form

Part 2 – To be completed by staff

Planning Division Analysis

Initial Review Date: 4/6/2016 Tax Parcel Number: 13659 000 000

Map Number: 3950 Zoning District: UMU-28 SIC Code: Rehabilitation Center

Murphy Wellfield Protections Permit

Located in Wellfield Zone: [] Yes No Primary Secondary Tertiary
Permit Required: EXEMPTION WELLFIELD SPECIAL USE PERMIT WELLFIELD PERMIT
Conditions or Comments: _____

- Special Overlay Plans or Districts:** [] Yes No
- | | | |
|-----------------------|--------------------------------|--|
| [] Central Corridors | [] NW 39 th Avenue | [] Corporate Park |
| [] Traditional City | [] University Heights | [] SW 13 th Street |
| [] Five Points | [] Gateway Street | [] Special Environmental Overlay |
| [] Idylwild-Serenola | [] College Park | [] Significant Ecological Communities |

Parking Standard for Zoning District
Parking Standard, Vehicle: 1 per 200 SF Bicycles: 5% of Vehicle Standard

Comments: _____

SIGNATURE/PLANNING DIVISION Ralph Hilliard DATE: 4/6/16



Planning & Development Services

Station 11
PO Box 490
Gainesville, FL 32627-0490
352-334-5022
352-334-2648 (Fax)

www.cityofgainesville.org/planningdepartment

April 11, 2016

Kyle J. Benda, Esq,
Knellinger, Jacobson & Associates
2815 NW 13th Street, Suite 304
Gainesville, Florida 32609
Subject: ZC-15-00368

Dear Mr. Benda:

City Staff met with the City Attorney's office regarding your letter dated March 25, 2016. Based on that meeting it was determined that Planning Staff should clearly identify for you and your client what uses are allowed on the property at 1208 NW 6th Street, by ZC-15-00368 and the Office zoning on the property. It is not the intention of staff to revoke the zoning compliance but to clarify what is allowed.

The City's Land Development Code (LDC) (Section 30-22) currently uses the 1987 Edition of the Standard Industrial Classification Manual for the purpose of classifying uses of property except for those terms that are specifically defined in Section 30-23 of the LDC. The zoning compliance form (ZC-15-00368) was approved for mental health, human relations (social skills training) and substance abuse counseling and all the uses allowed by Standard Industrial Classification IN 8084 (see attached list). This category allows the health practitioners (IN 8084) that provide the services listed on the zoning compliance form. The zoning compliance does not allow uses that fall within the category of a rehabilitation center. A rehabilitation center is specifically defined in the City's Land Development Code as, "a facility providing professional care, nonresident only, for those requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar problems." The key phrase in the definition for rehabilitation center is "for those requiring therapy". If the clients that you are serving are receiving the service through a contract (such

as a contract from the Department of Corrections, Juvenile Justice, or other State or Federal agencies) with your company or individual staff, that use would not be allowed. If the clients your agency are counseling are clients seeking counseling on their own that use is allowed by right.

The general office district on the property allows a host of uses that you should also be aware of (see attached list), including rehabilitation centers by special use permit.

If you need further clarification or have questions you may contact me at (352) 393-8698.

Sincerely,

A handwritten signature in cursive script that reads "Ralph Hilliard".

Ralph Hilliard
Planning Manager

CC: Brandi Smith, ITM
Daniel Nee, Assistant City Attorney

STANDARD INDUSTRIAL CLASSIFICATION

Industry Group 804: Offices And Clinics Of Other Health Practitioners

8049 Offices and Clinics of Health Practitioners, Not Elsewhere Classified

Establishments of health practitioners engaged in the practice of health fields, not elsewhere classified. Practitioners may or may not be licensed or certified, depending on the State in which they practice. Establishments operating as clinics of health practitioners, not elsewhere classified, are included in this industry.

Acupuncturists, except M.D.: offices of

Audiologists, offices of

Christian science practitioners, offices of

Dental hygienists, offices of

Dieticians, offices of

Hypnotists, offices of

Inhalation therapists, registered

Midwives, offices of

Naturopaths, offices of

Nurses, registered and practical: offices of, except home health

Nutritionists, offices of

Occupational therapists, offices of

Paramedics, offices of

Physical therapists, offices of

Physicians'assistants, offices of

Psychiatric social workers, offices of

Psychologists, clinical offices of

Psychotherapists, except M.D.: offices of

Speech clinicians, offices of

Speech pathologists, offices of

(e) Permitted uses, OF (general office district).

SIC	Use	Conditions
	USES BY RIGHT:	
	Any accessory uses customarily and clearly incidental to any permitted use	
	Compound uses	
	Correspondence schools	
	Day care center	In accordance with article VI
	Food trucks	Only when accessory to a permitted principal use and in accordance with article VI
	Newspaper establishments excluding on-site printing or warehouse facilities	
	Personal fitting and sale of prosthetic or orthopedic appliances	
	Places of religious assembly	In accordance with article VI
	Professional schools	Cannot be located adjacent to property designated for single family on the future land use map of the comprehensive plan
	Public services vehicles	In accordance with article VI
	Residential uses up to 20 units per acre	
	Sales offices without warehousing, showrooms or retail space	
	Exercise studio	Only in an enclosed building
GN-074	Veterinary services	In accordance with article VI

SIC	Use	Conditions
GN-078	Landscape and horticultural services	Offices only, outdoor storage prohibited
MG-15	Building construction - General contractors and operative builders	Offices only
MG-43	U.S. Postal Service	
GN-472	Arrangement of passenger transportation	Offices only, with no operation of passenger tours from the site
MG-48	Communications	Accessory transmission, retransmission and microwave towers up to and including 100 feet in height in accordance with article VI
GN-591	Drug stores and proprietary stores	Only when accessory to and in the same building as health services or offices of physicians, dentists and other health practitioners
Div. H	Finance, insurance and real estate	Excluding cemetery subdividers and developers (IN-6553)
MG-72	Personal services	Funeral services and crematories (GN-726) provided the requirements of article VI are met
MG-73	Business services	Excluding heavy construction equipment and leasing (IN-7353) and disinfecting and pest control services (IN-7342)
GN-801 through 805	Health services	Nursing and intermediate care facilities in accordance with article VI
GN-807 through 809	Medical and dental laboratories, home health care services and miscellaneous health and allied services not elsewhere classified	Excluding blood banks (see uses by special use permit)
MG-81	Legal services	

SIC	Use	Conditions
GN-839	Social services not elsewhere classified	
MG-86	Membership organization	Excluding GN-864, civic, social and fraternal associations
MG-87	Engineering, accounting, research, management and related services	Excluding IN-8734, testing laboratories, and IN-8744, facility support management services
MG-94, 95 and 96	Public administration	
	USES BY SPECIAL USE PERMIT	
	Bed and breakfast establishment	In accordance with article VI
	Blood banks	Must have a two acre minimum lot size
	Food distribution center for the needy	In accordance with article VI
	Private schools	In accordance with article VI
	Public schools, other than institutions of higher learning	In accordance with the provisions of section 30-77, educational services district (ED)
	Rehabilitation centers	In accordance with article VI
	Residences for destitute people	In accordance with article VI
	Retransmission and microwave towers	Accessory transmission at heights higher than 100 feet in accordance with article VI
GN-832	Individual and family social services during daylight hours only	Excluding adult day care centers, multi-service centers (neighborhood), temporary relief services, social service centers (e.g., Salvation Army, etc.) and youth centers

LAW OFFICE OF

KNELLINGER, JACOBSON & ASSOCIATES

2815 NORTHWEST THIRTEENTH STREET • BANK OF AMERICA BUILDING, SUITE 305 • GAINESVILLE, FLORIDA 32609

RICHARD M. KNELLINGER, SHAREHOLDER
JUSTIN D. JACOBSON, SHAREHOLDER
LAUREN N. RICHARDSON, LL.M., ASSOCIATE
KYLE J. BENDA, ASSOCIATE

WWW.FAMILYANDBUSINESSLAW.COM
INFO@KNELLINGERLAW.COM
TELEPHONE (352) 373-3334
FACSIMILE (352) 376-1214

April 22, 2016

via certified mail

Daniel Nee, Esq.
City of Gainesville, Assistant City Attorney
P.O. Box 490
Station 46
32627-0490

Dear Mr. Nee,

After receiving the City Planning Department's letter dated April 11, 2016, there appears to be a misunderstanding concerning the application of the City's Land Development Code (LDC) to our client's use of their property. First, we would like to reassert the positions in our letter to the City Attorney dated March 25, 2016 in more detail.

Enclosed with this letter are e-mails between the Planning Department and our client concerning the use restrictions of the general office zoning district pursuant to the LDC. In the e-mail dated September 21, 2015, our client asked if its property at 1208 NW 6th Street would need to be classified as a "rehabilitation center" when providing counseling to mental health groups, which included substance abuse groups. In response to this question, the City replied that our client would not need a Special Use Permit because substance abuse counseling was not the *only* source of our client's patient load. Because Section 30-23 of the LDC does not distinguish between different "social disorders" requiring therapy to classify a property as a "rehabilitation center," our client did not list every possible "social disorder" in their application. Rather, our client asked about substance abuse counseling, which falls within the general category of uses for a "rehabilitation center." If counseling those "requiring therapy" for substance abuse does not need a Special Use Permit, then the same standard must apply to sex offender counseling.

After exchanging e-mails with our client, the City issued ZC-15-00368 and approved the language proposed by our client to describe the use of the premises. The City advised our client that they would not need a Special Use Permit, and then made an about-face in the letter from the Planning Department dated March 22, 2016, which stated that our client *would* be required to get a Special Use Permit. In essence, the about-face completely reverses the City's earlier position. This modification of the terms of the permit issued by the City on October 13, 2015 effectively revokes the previously approved permit and its contemplated uses.

It is my understanding that the City's sole support for its position that providing counseling for sex offenders "requiring therapy" needs a Special Use Permit to operate in the general office zoning district is the determination of "rehabilitation center" status pursuant to Section 30-23 of the LDC. If substance abuse counseling groups are allowed in this zoning

EXHIBIT H

district without a Special Use Permit, then there is no authority to prevent sex offender counseling groups under the same LDC provision. It is an open invitation for arbitrary enforcement when the City has unbridled discretion to decide to require the issuance of a Special Use Permit for those "requiring therapy" related to *some* "drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation, or other similar problems," but not others in the same overall category. Such inconsistent enforcement has actually resulted here: our client was initially informed by an employee of the Planning Department that our client would not need a Special Use Permit, but was later informed that our client would need one. In our investigation, it seems that our client is being singled out for disparate treatment.

Additionally, the definition of "rehabilitation center" in the LDC is equally unclear. The phrase, "requiring therapy," upon which the meaning of Section 30-23 of the LDC hinges, is not clear as to what "requiring" actually means. By reading the definition literally, it means that a large portion of mental health counseling providers in Gainesville are without the proper permits because a judge, a parole officer, a governmental agency, or a spouse, is "requiring" that someone attend therapy. The City's interpretation of the definition affects a litany of other providers required to provide therapy for substance abuse, sexual offender treatment, anger management, batterer's intervention, and many other "required" programs. This imprecise and vague language does not inform a person of normal intelligence what conduct is prohibited or permitted by the LDC.

In the interests of fairness and full disclosure, this letter outlines the elements of our argument we are considering at this point. Our client only wishes to be able to continue to provide its services to the community, as it has done uninterrupted and without incident for over thirty years. If you would like to discuss some kind of solution to the issues set forth in this letter, please do not hesitate to contact me.

Sincerely,



Kyle J. Benda

cc: Brandi Smith, the ITM Group
Alvin Butler, the ITM Group
Harry Spears, the ITM Group
Ralph Hilliard, Planning Manager

Enclosures: October 13, 2015 e-mails from the City to the ITM Group
October 8, 2015 e-mails from the City to the ITM Group

September 21, 2015 e-mails from the City to the ITM Group
September 18, 2015 e-mail from the City to the ITM Group

Thank you!!! I will get the business tax done when we have a start of business date. Thank you again for all of your help.

Brandi Smith
Fiscal/Forensic Manager
The ITM Group
www.itmflorida.com
352-379-2829

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From: Hoge, Michael J. [mailto:hogemj@cityofgainesville.org]
Sent: Tuesday, October 13, 2015 2:52 PM
To: 'Brandi Smith' <bsmith@itmflorida.com>
Subject: Zoning Compliance Approval form

Brandi – Here is your zoning approval. If you need to contact the Billing and Collections office (Business Tax Licenses), call 352-334-5024.

Mike Hoge

Planning Assistant
Planning and Development Services
City of Gainesville
hogemj@cityofgainesville.org
Phone: (352) 393-8699
Fax: (352) 334-3259

Hours: 7:00 AM – 6 PM,
Monday – Thursday
Closed Fridays

Mail Address:

City of Gainesville
Planning and Development Services
ATTN: Mike Hoge
Station 12
P.O. Box 490
Gainesville, FL 32627-0490

Here you go.

Thank you,

Brandi Smith
Fiscal/Forensic Manager
The ITM Group
www.itmflorida.com
352-379-2829

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From: Hoge, Michael J. [mailto:hogemj@cityofgainesville.org]
Sent: Tuesday, October 13, 2015 10:00 AM
To: 'Brandi Smith' <bsmith@itmflorida.com>
Subject: Zoning Compliance Approval form

Return this to my email (below) at your earliest convenience.

Mike Hoge

Planning Assistant
Planning and Development Services
City of Gainesville
hogemj@cityofgainesville.org
Phone: (352) 393-8699
Fax: (352) 334-3259

Hours: 7:00 AM – 6 PM,
Monday – Thursday
Closed Fridays

Mail Address:

City of Gainesville
Planning and Development Services
ATTN: Mike Hoge
Station 12
P.O. Box 490
Gainesville, FL 32627-0490

Great!! Can you please send me one and I will get it filled out and sent back to you?

Thank you,

Brandi Smith
Fiscal/Forensic Manager
The ITM Group
www.itmflorida.com
352-379-2829

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From: Hoge, Michael J. [mailto:hogemj@cityofgainesville.org]
Sent: Tuesday, October 13, 2015 8:38 AM
To: 'Brandi Smith' <bsmith@itmflorida.com>
Subject: RE: check this one please

The description you are giving me will be OK. I can put a note on the approved form that the counseling will not be for substance abuse only. If you do not have a Zoning form, just e-mail me a request for one.

From: Brandi Smith [mailto:bsmith@itmflorida.com]
Sent: Thursday, October 08, 2015 1:56 PM
To: Hoge, Michael J.
Subject: RE: check this one please

I don't think we can use the word psychiatric since we do not have any psychiatrists working here. In the past, we put "Counseling Services including human relations and Substance abuse" on the line that asks for the Proposed Use of Premises. It is my understanding that we have to state the substance abuse counseling on the zoning permit in order for it to be in compliance for the DCF License. We have not made an offer on the building to purchase it so I believe we can wait until after you are back to get the permit done that way you can take care of it for us since you know the history of what is going on. Would that be OK?

Thank you,

Brandi Smith
Fiscal/Forensic Manager
The ITM Group
www.itmflorida.com
352-379-2829

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From: Hoge, Michael J. [mailto:hogemj@cityofgainesville.org]
Sent: Thursday, October 08, 2015 1:02 PM
To: 'Brandi Smith' <bsmith@itmflorida.com>
Subject: RE: check this one please

Brandi – The zoning is fine. You should turn in a Zoning Compliance Approval form, and I recommend that you describe your business as psychiatric counseling or something similar so that we can treat you like a regular doctor's office.

I will be out of my office until Tuesday. You can submit the zoning form at any time to our office and one of our other planners can take care of it.
Mike Hoge

From: Brandi Smith [<mailto:bsmith@itmflorida.com>]
Sent: Thursday, October 08, 2015 12:43 PM
To: Hoge, Michael J.
Subject: check this one please

Mike,

I think we have found a place that will work for us but I wanted to check with you to make sure. **The address is 1208 NW 6th Street and it looks like it is zoned OF on the zoning map.** Remember that we only do a very small amount of Substance abuse outpatient counseling but need zoning approval to do so for our DCF license.

The building is for sale and we are considering selling our current building and buying that one so we don't have to have two offices anymore. Thank you for your time.

Brandi Smith
Fiscal/Forensic Manager
The ITM Group
www.itmflorida.com
352-379-2829

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Yes, that property is zoned OF (General Office district), which would allow the Health Services group, including Psychiatric/Psychologists services.
Mike

From: Brandi Smith [mailto:bsmith@itmflorida.com]
Sent: Monday, September 21, 2015 9:47 AM
To: Hoge, Michael J.
Subject: RE: question

Sorry for the confusion and glad we got a clearer picture. We have been looking at this office and would like to see if it would work.

502 NW 16th Ave

Thank you again for all of your help.

Brandi Smith
Fiscal/Forensic Manager
The ITM Group
www.itmflorida.com
352-379-2829

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From: Hoge, Michael J. [mailto:hogemj@cityofgainesville.org]
Sent: Monday, September 21, 2015 9:21 AM
To: 'Brandi Smith' <bsmith@itmflorida.com >
Subject: RE: question

I think the problem came up when I thought that substance abuse was the only source of your patient load. If it is not, then we can classify you as a general psychiatric/mental health counseling business, which would not require a Special Use Permit. Contact me with other office or business addresses so I can do a zoning check, and we can go from there.
Mike

From: Brandi Smith [mailto:bsmith@itmflorida.com]
Sent: Monday, September 21, 2015 8:25 AM
To: Hoge, Michael J.
Subject: RE: question

Yes, we have licensed mental health professionals that mainly do mental health counseling and the substance abuse part is very small which is why we were willing to close that side of it in order to find a suitable office. **There are 9 mental health groups and only 2 small substance abuse groups. So are you saying that we could just do both without being classified as a rehab center?** I know that part of getting our DCF license means we have to have zoning approval to do substance abuse but like I said it is a very small part. Thank you again for your help.

Brandi Smith
Fiscal/Forensic Manager
The ITM Group
www.itmflorida.com
352-379-2829

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From: Hoge, Michael J. [mailto:hogemi@cityofgainesville.org]
Sent: Monday, September 21, 2015 7:14 AM
To: 'Brandl Smith' <bsmith@itmflorida.com>
Subject: RE: question

If you have some licensed professionals on staff (MDs, psychiatrists, psychologists, etc), then **your mental health counseling would be allowed in our office, business and mixed use districts. That could include substance abuse if it is not the majority of your business.**

From: Brandl Smith [mailto:bsmith@itmflorida.com]
Sent: Friday, September 18, 2015 12:17 PM
To: Hoge, Michael J.
Subject: question

Mike,

We are considering closing the substance abuse counseling (since we are having such a hard time finding space to do it) part of our Annex office but still need to do mental health counseling at a new location. **We have some time as our lease isn't up until the end of February but wanted to try and secure an office before then. Are there any zoning restriction areas for just mental health counseling? I was under the impression that the substance abuse is what was causing the restrictions and since it is a very small portion of what we do and don't think it will be worth the extra expense of continuing...** Please let me know and thank you again for all of your help.

Thank you,

Brandi Smith
Fiscal/Forensic Manager
The ITM Group
www.itmflorida.com
352-379-2829

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EIGHT THINGS EVERYONE SHOULD KNOW ABOUT SEXUAL ABUSE & SEXUAL OFFENDING

Adopted by the ATSA Executive Board of Directors on June 23, 2014



Sexual abuse is a pervasive yet preventable worldwide problem that impacts everyone – individuals, communities, institutions, and society as a whole. Education is essential in the prevention of sexual abuse, but educational efforts are often impaired by the numerous myths and misconceptions that abound about sexual abuse and those who perpetrate sexual abuse. The questions and answers below are designed to provide up to date information about sexual abuse and those who perpetrate sexually abusive behavior.

1. *What is sexual abuse?*

Sexual abuse is a broad term that includes any sexual or sexually motivated behavior that is the result of someone being forced, coerced, or manipulated into witnessing or experiencing sexual harassment, exploitation or activity for which they did not, or could not, consent. Sexually abusive behaviors include, but are not limited to, forcing someone (adult, adolescent, child) to participate in sexual activity (e.g., sexual intercourse, oral sex, sexual touching) through threats, coercion, or manipulation; any sexual contact with someone who is unable to consent due to young age or incapacitation, no matter the reason for the incapacitation (e.g., alcohol, drugs, sleeping); exposing a child to sexual materials such as pornography; facilitating or participating in the sexual exploitation of children, teenagers, and/or adults; any type of unwanted sexual contact; sexual harassment; exposure (i.e., flashing); and voyeurism (i.e., peeping). All of these behaviors also constitute a sexual crime and, if reported to law enforcement, may result in a criminal conviction. Examples of sexual convictions include, but are not limited to, an adult touching a young child in a sexual manner, an individual engaging in sexual activity with an unconscious or incapacitated person, an individual exposing his or her genitals in public, an adult using physical force on another adult to facilitate sexual activity, or a 20-year old adult engaging in a sexual dating relationship with a 15-year-old teenager.

2. Who commits sexual abuse?

Those who perpetrate sexually abusive behavior are an extremely diverse group of individuals crossing all socioeconomic, educational, gender, age, and cultural lines. Because of these factors, the term “sex offender” is somewhat misleading, as it tends to imply one type of behavior (sexual offense) committed by one type of person (sexual offender). This “one size fits all” impression is incorrect: research consistently shows that individuals who perpetrate sexually abusive behavior are a diverse group of individuals who engage in sexually abusive behavior at differing frequencies, for varying reasons, and present with different levels of risk for future sexually abusive behavior. The term “sex offender” also creates the perception that an individual is unchangeable and will always be the same (i.e. once a sex offender, always a sex offender) when, in fact, research shows that people who perpetrate sexually abusive behavior can and often do change.

- **Adults:** Research has demonstrated that males commit the majority of sexual abuse, with approximately 5% of sexual abuse perpetrated by females (Cortoni, Hanson & Coache, 2010). Individuals who perpetrate sexual abuse range in age and differ in many ways - there is no specific “profile” or “type” due to the wide variety of individual differences among these offenders (Knight, 2010; Knight & King, 2012). Adults who perpetrate sexually abusive behavior also typically have a pre-existing relationship with the individuals whom they victimize. Research has consistently found that the majority of sexual abuse against children is perpetrated by someone known or in a position of trust to the child, not by a stranger (Snyder, 2000). Although adults have a slightly higher likelihood of being sexually assaulted by a stranger, the majority of sexual abuse against adults was also perpetrated by someone known to the victim (Catalano, 2006; Black, Basile, Breiding, Smith, Walters, Merrick, Chen, & Stevens, 2011).
- **Adolescents:** Adolescents who engage in sexually abusive behavior are not “mini-adults,” and a sufficient number of studies now exist that show the majority of these youth do not continue to sexually offend nor are they on a life path for repeat offending. Adolescents (age 13-17) account for more than one quarter (25.8%) of all sexual crimes and slightly more than a third (35.6%) of sexual abuse against minors (Finkelhor, Ormrod, & Chaffin, 2009). The majority of these adolescents are male, with females representing approximately 7% of juveniles who are adjudicated (i.e., under the court's jurisdiction) for sexual crimes (Finkelhor et al., 2009). Adolescents who are adjudicated for sexual crimes are more likely than adult sexual offenders to offend in groups and at schools and to have more male victims and younger victims (Finkelhor et al., 2009). However, the majority of sexual crimes occur within the residence of the perpetrator and/or victim, and this is also true for adolescents adjudicated for

sexual crimes (residence 68.8% vs. schools 11.9%; Finkelhor et al., 2009). The motivations for sexually abusive behavior by adolescents can often be different from adult offending behavior, particularly when the rapid and continuing developmental factors and dependence on caregivers/adults are taken into consideration. Additionally, just as adults present with differing motivations and factors that require individualized interventions, so do adolescents who engage in sexually abusive behavior. Therefore, a “one size fits all” approach does not work for either population.

For additional information, please see the ATSA document entitled *Adolescents Who Have Engaged in Sexually Abusive Behavior*

- **Children:** Children under age 12 are identified as having atypical sexual behavior, not “sexually abusive behavior,” due to their young age, developmental levels, and the continual changes that occur throughout childhood. Similar to adolescents, the majority of children are not on a life path for repeat problematic sexual behavior. It is common for young children to be curious about their bodies, and this curiosity includes exploring genitalia. Developmentally normative sexual behaviors in young children (also called “sexual play”) include looking at genitals, unsophisticated touching (i.e., no insertion or use of mouth), and masturbation. Sexual play occurs between children who have an ongoing mutually enjoyable friendship; who are of similar size, age, and social and emotional development; and the play is lighthearted, spontaneous and fun. In contrast, atypical sexual behaviors involve children of different sizes, ages, and social and emotional developmental levels; threats, coercion or force may be involved; and the behavior is upsetting. Children may develop atypical sexual behaviors for a variety of reasons, which include sexual reactivity (i.e., acting out sexually due to a known history of sexual abuse), abusive and/or neglectful environments, exposure to sexualized adults or media, and family violence. Children who exhibit atypical sexual behaviors also require individualized and specialized treatment services to address their behavior.

For additional information, please see the ATSA document entitled *Children with Sexual Behavior Problems*

3. Who are the victims of sexual abuse?

While sexual abuse exists in all communities, there are certain groups who are at higher risk for victimization, for example children, people with disabilities, and LGBTQ communities. Although reporting rates have increased over the past two decades, it

remains true that many sexually abusive incidents are not reported to the authorities and, due to this, the true rate of sexual abuse is difficult to determine (Finkelhor, Ormrod, Turner & Handby, 2012). However, available criminal justice and survey data have provided information about the most common characteristics of sexual abuse.

Research has indicated that the majority of sexual abuse is perpetrated by someone known to the victim, such as a family member, acquaintance, teacher, coach, or friend. According to the US Bureau of Justice Statistics (Snyder, 2000):

- 93% of children were sexually abused by someone known to them, such as a family member or acquaintance, with approximately 7% being victimized by a stranger.

Although adults have a slightly higher likelihood of being sexually assaulted by a stranger, the 2005 National Crime Victimization Survey (Catalano, 2006) revealed:

- 73% of rapes against females age 12 and older were perpetrated by someone known to the victim.

Additionally, the 2010 National Intimate Partner and Sexual Violence Survey (Black et al., 2011) indicated:

- 51.1% of female victims of rape reported being sexually abused by an intimate partner and 40.8% by an acquaintance.
- For male victims, 52.4% reported being raped by an acquaintance and 15.1% by a stranger.

No matter what relationship may have existed between the perpetrator and victim prior to the sexual assault, the offender made the decision to sexually abuse someone and is the sole person responsible for the sexual abuse. A victim is never responsible for being targeted and sexually abused by another person.

4. What motivates sexually abusive behavior?

Adults: The motivations for sexual abuse can be quite complex and are often interconnected. Whereas some adults who have been convicted for sexual crimes may be primarily motivated by sexual preference, such as a primary sexual preference for prepubescent children (pedophile) or sexual arousal to violence, others may be motivated by factors such as intimacy deficits, loneliness, anger, general antisocial or criminal attitudes, hypersexuality, a desire for power/control, or in most cases probably a combination of these factors. Additionally, some adults who have been convicted for sexual crimes may have multiple sexual convictions and/or may engage in a wide variety of sexually abusive or deviant behaviors, whereas others may only engage in one type of

behavior or one incident of sexual abuse. Adults convicted for sexual crimes also present with different levels of risk for future sexually abusive behavior, and knowledge of this risk through assessment with valid actuarial (i.e., research based) tools allows for better management of these individuals and better dispositional decisions to maximize public safety.

Adolescents: Adolescents also have complex and often interconnected motivations for sexually abusive behavior. Research has indicated that many of the factors related to general delinquency in adolescence (e.g., violence within the home, neglect, physical/emotional abuse) are also related to youth who sexually abuse (Schwartz, Cavanagh, Prentky, & Pimental, 2006). However, adolescents who have been adjudicated for sexually abusive behavior have less extensive criminal histories, fewer antisocial peers, and fewer substance abuse problems, when compared to adolescents who have been adjudicated for non-sexually abusive criminal behavior (Seto & Lalumiere, 2010). Studies have additionally shown that adolescents who have been adjudicated for sexually abusive behavior have higher than normal rates of sexual victimization and have often been exposed to pornography at an early age, two factors which may impact a youth's understanding of appropriate sexual boundaries and healthy sexual relationships (Schwartz et al., 2006; Seto & Lalumiere, 2010). Significantly, most adolescents who have a history of sexual victimization do not go on to commit sexually abusive behavior. Adolescents who have been adjudicated for sexually abusive behavior also present with differing motivations and factors that require individualized interventions - a "one size fits all" approach is not effective.

For additional information, please see the ATSA document entitled *Adolescents Who Have Engaged in Sexually Abusive Behavior*

5. Do sexual offenders recidivate?

Research has shown that most individuals adjudicated for sexual crimes do not continue perpetrating sexually abusive behavior (i.e., recidivate), and that an individual's risk for recidivism (i.e. rearrest and/or reconviction) is based upon many factors.

Current follow-up studies of adjudicated sexual offenders suggest that many sexual offenders will not recidivate with a subsequent sexual crime and that sexual recidivism rates are lower than typically portrayed in the popular media. However, it is important to acknowledge that the data available on recidivism rates are primarily derived from individuals who have been apprehended, prosecuted, and convicted of sexual crimes (i.e., known sexual offenders), and that recidivism is usually determined by examining criminal records after release. These studies do not provide information on sexual assaults that have not been investigated and/or adjudicated by law enforcement. Moreover, the recidivism rates presented below do not include offenses that, although sexually

motivated, cannot be identified as sexual from the criminal record (for example, some sexual assaults appear on the criminal record only as common assaults). Thus, the numbers presented below likely underestimate the true rates of sexual recidivism.

Adults: Adults adjudicated for sexual crimes are a diverse population with varying levels of risk, and rates of recidivism reflect these differences. Research has demonstrated that sexual recidivism rates differ based upon the type of sexual offending, the offender's age at time of release, and the length of time the offender has been offense free in the community. According to a 2004 meta-analytic study (Harris & Hanson, 2004):

- Incest offenders (that is, child molesters whose victims were their biological relatives or step-children) recidivated 6% after 5 years, 9% after 10 years and 13% after 15 years;
- Adults who offended against adults recidivated 14% after 5 years, 21% after 10 years and 24% after 15 years;
- Individuals who offended against boys recidivated 23% after 5 years, 28% after 10 years and 35% after 15 years.
 - **NOTE:** These numbers are cumulative and, although the percentage increases over time, the actual rate of sexual offending decreased the longer offenders were offense free in the community. Recent research indicates that, for every five years spent in the community offense free, the risk of sexual recidivism declined by 50%, with very low rates of recidivism (less than 5%) occurring after 10 years offense free and no recidivism (0%) occurring after 20 years offense free (Hanson, Harris, Helmus, & Thornton, in press).

This study also indicated that sexual offenders with prior sex offenses in their history are at greater risk for re-offense, whereas older offenders (50+ years old) are typically a lower risk for re-offense.

Adolescents: Research indicates that, once detected, the majority of adolescents who have engaged in sexually abusive behavior do not continue to engage in these behaviors. Sexual recidivism estimates for adjudicated youth who engaged in sexually abusive behavior have been reported in scores of studies conducted over decades of research. A study completed in 2010 reviewed 63 data sets looking at the sexual recidivism rates for 11,219 youth who had sexually offended and estimated a sexual recidivism rate of approximately 7% across a 5-year follow-up period (Caldwell, 2010). Even across a twenty-year prospective follow-up study, sexual recidivism rates remain low (Worling, Littlejohn, & Bookalam, 2010). It is also important to recognize that, if these youth reoffend, they are far more likely to do so with a nonsexual offense than with a sexual offense.

For additional information, please see the ATSA document entitled *Adolescents Who Have Engaged in Sexually Abusive Behavior*

6. What is sexual offense specific treatment?

Adults: Adults convicted of sexual crimes or those accused of sexual offense behavior are often required to participate in sexual offense specific treatment as a condition of their sentencing, supervision, civil commitment, or family reunification. Treatment is designed to target the individual processes that are related to the perpetration of sexually abusive behavior. These methods aim to help adults convicted or accused of sexually abusive behavior identify and change the internal and external factors that contribute to sexual offending; develop strategies to avoid, control, or productively address risk factors before re-offense may occur; and develop offender strengths and competencies so that they can address their needs appropriately. Medications that reduce sex drive or improve emotional management are also commonly used in sexual offense specific treatment.

Many sexual offense specific treatment programs are structured on the Risk-Need-Responsivity principles that provide guidance for the intensity, specific interventions, and delivery of services needed for each individual. In brief, the risk principle indicates that the intensity of services should be determined by the risk level of the individual, with higher risk offenders receiving more intensive services than lower risk offenders. The need principle maintains that interventions should focus on dynamic, or changeable, factors associated with reduced recidivism risk. The responsivity principle states that interventions should be provided in a manner that incorporates the offender's individual characteristics such as learning style, level of motivation, and other individual factors that may impact delivery of services. Group treatment is a common method for sexual offense specific treatment, but treatment interventions vary across programs and may include group, individual, family, behavioral, pharmacological, or a combination of these methods.

Youth: Adolescents and children who exhibit problematic sexual behaviors also benefit from treatment interventions. However, treatment programming for youth is not the same as sexual offense specific treatment for adults. The treatment needs of adolescents and children differ from those of adults and should be addressed through specialized programming that incorporates family involvement wherever possible, and takes into account that only a small minority of adolescents have entrenched abuse-related sexual interests. Treatment should also be individualized based upon the specific needs, developmental level, and risks for other forms of crime or misconduct by the adolescent or child.

For more information on sexual offense specific treatment for adults, please see the ATSA document entitled *Sex Offender Treatment for Adult Males*

For more information about the treatment of children and adolescents, please see the ATSA documents entitled *Children with Sexual Behavior Problems* and *Adolescents Who Have Engaged in Sexually Abusive Behavior*

7. Does treatment work?

Adults: Treatment of adults who have perpetrated sexually abusive behavior is an important component of a comprehensive system to prevent sexual abuse. There is evidence that treatment programs which follow the Risk, Need, and Responsivity principles are associated with lower rates of sexual recidivism as compared to programs that do not follow these principles or no treatment at all (Hanson, Bourgon, Helmus, & Hodgson, 2009). Similar to other kinds of interventions, not every individual will respond to treatment in the same way and some will benefit more than others. All reductions in the rate of sexual abuse are meaningful as it is a form of prevention and represents the protection of children and adults from victimization. It is critical that we invest in more methodologically rigorous treatment outcomes studies, so that we can identify the most efficacious interventions for each individual offender. Such research is essential for maximal public safety and the protection of children and adults from future victimization.

Adolescents: Research indicates that, once detected, the majority of adolescents who have engaged in sexually abusive behavior do not continue to engage in these behaviors. Adolescents who engage in sexually abusive behavior also tend to be more responsive to treatment interventions and often demonstrate behavioral changes more readily than adults. According to a 2006 meta-analytic study, adolescents who received sexual offense specific treatment recidivated at a lower rate than adolescents who received no treatment (7.37% versus 18.93% respectively; Reitzel & Carbonell, 2006). Additionally, a 2012 retrospective study that followed nearly 500 juveniles adjudicated for sexually abusive behavior into adulthood revealed that approximately 10% of the sample continued to engage in sexually abusive behavior in adolescence and adulthood, whereas 90% of the sample desisted (Lussier, Van Den Berg, Bijleveld, & Hendriks, 2012).

8. How are adult sexual offenders managed and supervised?

It is a reality that most sexual offenders who are incarcerated will return to the community at some point in time and this makes effective supervision strategies imperative for the prevention of sexual abuse. Some offenders are incarcerated and some serve all or part of their sentence in the community on supervision such as probation or parole. There are also differences in the length of prison sentences, length of community supervision, and individual restrictions imposed on sexual offenders that are based upon factors such as the offender's criminal history, their level of risk for re-offense, and the pervasiveness of their sexually abusive behavior. Public safety is enhanced when scientific evidence about

risk is used to guide dispositions about length of incarceration and management post release.

Community supervision (i.e., parole, probation) provides accountability for offenders who are in the community and assists recently released offenders with transitioning back into the community by providing structure, support, and oversight. Effective community supervision also includes other collaborative partners, such as the sexual offense specific treatment provider, community support persons, victim advocates, and other involved professionals. A coordinated system for the management of sexual offenders may enhance the safety of the community by facilitating successful offender reintegration, protecting victims, and preventing future incidents of sexual violence.

Sexual abuse is a complex issue which impacts everyone – individuals, communities, institutions, and society as a whole. Despite this reality, addressing sexual abuse is often viewed only as a criminal justice responsibility; however, due to its widespread impact, preventing sexual abuse is a responsibility of us all. Current responses to sexual abuse typically focus on intervention and prevention *after* an assault. ATSA joins a growing movement which recognizes and responds to sexual abuse as a public health issue, thus directing our efforts on prevention of sexual abuse *before* it is perpetrated. Public health approaches also move beyond ensuring the health of individuals, to the health and safety of an entire population. Through education, collaboration, and the involvement of everyone - community members, violence prevention professionals, victim advocates, law enforcement professionals, those who provide treatment to victims/survivors of sexual abuse, and those who provide treatment to persons who have perpetrated sexual abuse – the prevention of sexual abuse can become a reality.

For additional information about the prevention of sexual abuse, please see the ATSA document entitled *Sexual Violence Prevention Fact Sheet* and visit the Prevention Committee site at www.atsa.com/prevention-resources

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Sex Offender Residency Restrictions and Other Sex Offender Management Strategies: The Probation Officer Perspective in Florida

A. L. Datz

Abstract

Professional probation and parole practitioners have experienced a major increase in the workload associated with the supervision of sexual offenders. Public outcry and the sensationalism of media reporting result in annual legislative unfunded mandates that possibly deter from the true goal of containment, yet this group of experienced guardians are not representatively surveyed in regards to their experience and opinions regarding the efficacy of residency restrictions for sexual offenders. Input from this particular group within the literature on this subject has not been found therefore a statewide survey of Probation and Parole Officer's dedicated to the supervision of sexual offenders was conducted. Results indicate that these officers believe that these restrictions as applied in Florida, give the public a false sense of security and that other containment strategies should be explored.

Introduction

In 1989 Jacob Wetterling age 11, his brother Trevor, age 10, and friend Aaron, age 9, were riding their bicycles toward their home when a masked man suddenly appeared and questioned the boys about their age. The man chose Jacob to abduct and Jacob was never seen again. Jacob's parents subsequently learned there was a halfway house for sexual offenders close to their home. (National Conference on Sex Offender Registries, 1998)

In July 1994, 7-year-old Megan Kanka accepted an invitation from a neighbor to come and play with his new puppy. The neighbor was a twice-convicted pedophile who raped and killed her, leaving her body in a nearby park. Her family was unaware that there was a sexual predator in the neighborhood (Megan Kanka Foundation, n.d.)

These two examples illustrate the type of sensationalized events that have influenced and shaped legal policy towards convicted sex offenders nationwide, and particularly in Florida. A shocked and frightened public exposed to these types of stories has demanded a response from their elected officials, resulting in laws that are often impractical, overreaching and ineffective (Horowitz, 2007). These laws do not only impact sexual offenders, they change the duties and responsibilities of law enforcement and correction officials, increasing workload and create issues not anticipated when the laws were enacted (No Easy Answers, 2007).

Florida has been quick to adopt new legislation regarding sexual offenders and to increase the severity of existing laws. For example, Florida was the first state to provide sex offender information on the internet and to set up a 24-hour hotline. Many of these changes and new laws have been specifically directed towards sexual offenders under

the supervision of Probation and Parole Officers of the Florida Department of Corrections. The requirements for these offenders and thusly the responsibility and activities required for the monitoring and enforcement has increased annually, often without funding. Many of the restrictions and requirements for sexual offenders, although intended to protect the public, are not supported by empirical evidence and in fact may be counter productive (Levenson & D'Amora, 2007). Some of these restrictions may increase the risk factors associated with reoffending (Hepburn & Griffin, 2004).

One extremely problematic component of this changing legislation is housing. Restrictions regarding acceptable housing for convicted sex offenders have grown increasingly stringent over the past two decades. Probation officers in Florida have been required to spend an increasing amount of work, time, and effort attempting to locate suitable and approvable places for sexual offenders to live and work. In addition to being a requirement for the offender's, probation and parole officers note that without a stable home environment it is difficult to monitor their offenders, to ensure they receive treatment, and to see that they comply with the conditions of their supervision. Correction officials in Florida have recently said that finding suitable residences for sexual offenders is one of the greatest problems probation officers have to deal with at present (Florida Department of Corrections, 2008 November).

Law enforcement officials, treatment providers, and even sexual offenders have been surveyed about these and other issues. However, probation officers are rarely approached about sex offender management practices and public safety, even those who specialize in the community supervision of sexual offenders. This paper will seek their opinions and experiences regarding sexual offenders, particularly in regard to homeless and transient sex offenders and the efficacy of residency restrictions.

Literature Review

History of Sex Offender Restrictions and Laws in Florida

Florida first enacted legislation directed at sexual predators in 1993. The state strategy towards repeat sexual offenders sought to designate repeat offenders as sexual predators, mandating these repeat offenders have specialized parole/probation conditions in the community with conditions of supervision, required registration with the Florida Department of Law Enforcement and community and public notification concerning their presence (Florida Department of Corrections, 2008 September).

Residency restrictions soon followed the registration laws in 1994 when the state enacted restrictions prohibiting sexual predators from living within 1000 feet of a school, park, playground or other place where children regularly congregate. In 1995 Florida enacted standard conditions of supervision that included the residency restrictions for certain sexual offenders who were not designated as sexual predators but whose victims were under the age of 18. In addition to this restriction, several others were added, including a 10PM – 6AM curfew, mandatory treatment, no contact with victim, no contact with children unless approved by the court, employment restrictions, prohibition on viewing obscene or pornographic material, DNA specimens, restitution for victim

counseling and Probation Officer searches of sexual offender's environment (Florida Department of Corrections, n.d.).

Florida policy increased in severity again when in 1997 the Public Safety Information Act was passed and additional mandatory conditions of supervision were established, including submission to a annual polygraph, prohibition against driving alone without the permission of the probation officer, maintenance of a driving log, no post office boxes, HIV test with results sent to victims, and electronic monitoring when recommended by the department. 1997 also brought the so-called Duty to Uphold Law (Florida Statute 775.24), which directed that the sentencing court could make no modifications to the registration and notification requirements for sexual offenders (Florida Department of Corrections, 2008 September).

In 1998 the Jimmy Ryce Civil Commitment Act was passed which declared that certain sexually violent predators are subject to civil commitment for the purpose of treatment once they have completed their term of criminal incarceration. Subsequently, in 2002, the Campus Sex Crimes Prevention Act passed. This act requires registration and notification to school administration of certain sexual offenders who may be working at or attending any Florida educational institutions, both public and private. Two years later, the school bus stop provisions were added to existing sex offender restrictions, prohibiting certain sexual offenders on post prison release supervision from residing within 1000 feet of a designated school bus stop (Florida Department of Corrections, 2008 September).

In 2005, following the rape and murder of 9 year old Jessica Lunsford, an act named for her was passed by the Florida Legislature. In addition to enhanced penalties for sexual offenses and lifetime supervision following any prison release for certain sexual offenders, this act required certain sexual offenders to wear active electronic global positioning satellite units to monitor their whereabouts at all times. Further, 2005 also saw for the first time, local ordinances passed which restrict the places where certain sexual offenders are allowed to establish residence (Florida Department of Corrections, 2008 September).

Finally, 2006 and 2007 brought legislation that increased the registration requirements for those sexual offenders required to register, and changed the policy regarding offenders' potential release pending disposition for any new criminal arrests (Florida Department of Corrections, 2008 September). These statewide mandates do not include the many local ordinance restrictions enacted in cities and counties throughout Florida. For example, in some parts of this state, real estate developers and private communities are mandating background checks that will automatically exclude convicted sex offenders from being able to buy or rent property in these residential areas, regardless of the proximity to schools, day care centers, or bus stops (Levenson & D'Amora, 2007).

Current Residency Restrictions in Florida

Presently, Florida Statute prohibits certain sexual offenders whose victims were under the age of 18 from living within 1000 feet of a school, day care center, park, or playground. Further, for certain sexual offenses committed on or after October 2005 where the victim was under the age of 18, a mandatory condition of supervision

prohibiting the offender from living within 1000 feet of a school, day care center, park or playground, or other place where children regularly congregate is imposed. In October 2005, school bus stops were added to the 1000 foot prohibitions for certain sexual offenders released on post prison conditional release supervision. Finally, in November 2008, the FDOC had a record on 135 ordinances (Florida Department of Corrections, 2008 November). This writer was advised that the current number of ordinances reported was up to 139 currently throughout the state that restrict residency options in a variety of ways and for a variety of offenders up to and including 3,000 feet from designated places. (Britton, S., personal correspondence April 8th, 2009)

As of September, 2008 there were 7000 schools, 14000 registered daycares, 3600 parks and approximately 250,000 bus stops in Florida. The numbers of additional locations that are prohibited by the local ordinance restrictions are not delineated in any collective source to date but have included public libraries, churches, theatres and pools, etc. It is of further complication to all who are charged with enforcing these restrictions, that neither Florida Statute nor many of the local ordinances provide definitions for these places, causing the determination of what is an appropriate and legal residence for these offenders, increasingly confusing and difficult (Florida Department of Corrections, 2008 November).

Additionally, Florida residency restrictions are applied to either sexual predators or sexual offenders based on the age of the victim and not based on the risk they represent. Post prison conditionally released offenders under the purview of the Florida Parole Commission have historically been given the restrictions even though the victim was 18 years of age or older. It is further noted that some of the statutory restrictions only apply to certain sexual offenders while they are subject to supervision, and for a few of them the restriction no longer applies once they have completed their term of supervision (Florida Department of Corrections, 2008 September).

Residency restrictions become more complicated when the offender has any medical or special needs conditions that require any level of care. Nursing homes and assisted living facilities are becoming wary of accepting released offenders because they want to avoid having sexual offenders registered at their addresses (Florida Department of Corrections, 2008 November). This problem will worsen as prison sentences increase, resulting in older released offenders who are more likely to have deteriorating health conditions.

Further Florida-specific residency restrictions include banning sex offenders from public hurricane and homeless shelters (Levenson & D'Amora, 2007) and a prohibition in Hillsborough County against sex offenders from living together and from comprising more than ten percent of the residents of a mobile home park. It also dictates punishments for landlords who knowingly allow this law to be broken (Bay News Nine, 2008).

Sexual Offenders and Risk

The onset of residency requirements appears to be based on the idea that strangers are abducting children in order to molest and murder them; that residency restrictions will stop this stranger abduction from happening, and that convicted sex offenders are extremely likely to commit another sexual crime. All three of these assumptions have

been shown by recent studies to be unsupported by empirical evidence (Levenson & D'Amora, 2007).

First, research indicates that the public has much more to fear from friends and family than they do from strangers. The Bureau of Justice Statistics reported that children were sexually victimized only 7% of the time by a stranger. Children were victimized by a family member in 34.2% of reported cases, and 58.7% were acquainted with the perpetrator. For victims 5 years of age or younger the likelihood that a family member of the victim was the perpetrator increases to 48.6% (Snyder, 2000). Although the numbers vary slightly from study to study, researchers conclusively state that the majority of child victims know their attacker (Snyder, 2000). A Minnesota study concluded that "Although it is possible that a residency restrictions law could avert a sex offender from recidivating sexually, the chances that it would have a deterrent effect are slim because the types of offenses it is designed to prevent are exceptionally rare and, in the case of Minnesota, "virtually non-existent over the last 16 years" (Minnesota Department of Corrections, 2007).

Second, there is no evidence to support a causal link between proximity of housing to locations where children congregate and the likelihood of a crime happening (Levenson et al, 2008).

In 2004 the Sex Offender Management Board in Colorado conducted a study to examine whether the living arrangements or location of sexual offenders in the community impacted public safety including those sex offenders in "shared living arrangements" (SLA) with other sexual offenders. The research caused the Board to conclude that residency restrictions may not serve as deterrence from re-offending and did not recommend that Colorado adopt such restrictions. This study also found that when looking at crimes that had already been committed, there was no link between the location of the perpetrator's home and it's proximity to any of the currently restricted areas in Florida (Colorado Department of Public Safety, 2004).

A second study contradicting the assumption that residency restrictions will protect children from molestation was conducted in 2007 by researchers in Minnesota, and examined residential proximity and recidivism of sexual offenders in that state. They concluded that of the 224 sexual offenses committed by released offenders, none would have been prevented by residency restrictions. They further concluded that over 50% of the recidivate offenders gained access to their victims due to "relationship proximity" by fostering a relationship with the mothers of their victims and not by random encounters due to the location of their residence. Another point discussed by these researchers was that many attackers find their victims on the internet, where residency restrictions are irrelevant (Minnesota Department of Corrections, 2007).

Finally, although sex offenders are thought by politicians and the public to have a high rate of recidivism, this has never been shown to be true. Levenson & D'Amora conclude that "their recidivism rates are much lower than commonly believed," (2007) and the research done by their peers agree. For instance, several studies of recidivism showed a lower rate of recidivism in the sexual offender population as compared to non-sexual offender populations (Meloy, 2005; Minnesota Department of Corrections, 2007).

Consequences of Residency Restrictions

Residency restrictions seem to have unintended consequences that may make communities less safe rather than more safe, because a poor residential situation makes an offender more likely to re-offend (Florida Department of Corrections, n.d.; Willis & Grace, 2008). These restrictions make it more difficult to find housing for released offenders, resulting in increased risk factors for recidivism such as homelessness, transience, and instability. One study found that residency restrictions resulted in housing instability for offenders, decreased access to employment and social support, and separation from spouses, psychological problems and financial hardships. These restrictions can also lead to homelessness, making offenders much more difficult to monitor (Levenson & Hern, 2007)

Two other unforeseen consequences of these restrictions are time/resource misuse and fewer sexual offender convictions. Some studies have concluded that the time probation officers and other officials spend addressing residency issues takes time away from supervising high risk sex offenders or in preventing crimes that are more likely to occur or solving ones that have already taken place (Levenson et al, 2008). Further, research indicates that as a result of residence and other restrictions, there have been fewer plea agreements. This puts more of a burden on the judicial system because it increases the number of cases that must go to trial, and it likely results in erroneous acquittals or not guilty verdicts which may have otherwise been plea agreements (Levenson & D'Amora, 2007). These offenders' will not be held accountable for their crimes, nor will they be monitored or receive treatment.

Sex Offender Management Boards and Strategies

In some states a management board is a collaborative board made up of all interests in the criminal justice system including but not limited to victim representatives, prosecutors, judges, law enforcement and corrections officials, treatment providers, child advocates, and polygraph experts who specialize in examining sexual offenders and others who have an interest in this public safety issue. Some boards also encourage cooperation and interaction between these entities, conduct research and are an effective means of assessing the actual problem and the most effective solutions, rather than reacting to public sentiment without reviewing the facts (Bumby, 2008).

An example of policies that are created and not based on evidence is a Commissioner in Tampa who spoke about a new policy banning sex offenders from living together and said, "It should give the sheriff's office, government officials, a better way of tracking and keeping tabs on their location and keeping them away from children" (Bay News Nine, 2008). Clearly, as indicated by other research and this study, residence restrictions do not make it easier to monitor sex offenders, but rather make it more difficult. A commissioner may not be qualified or informed enough to make policies about sexual offenders, but a management board would be better equipped to do so.

A management board needs to develop and implement evidence-driven policy because policy that is derived from public perception and media sensationalism does not work. For example, there has been a highly publicized story about released sex

offenders living under a bridge in Miami. When the story was originally published, there were 8 men living under the bridge (Stone, 2007). Recent follow-up reports have found the number of former offenders living there has increased to 54. Residence restrictions and the high cost of living in Miami-Dade County have made it impossible for the offenders to find affordable, acceptable housing, so they are living under the Julia Tuttle Causeway in squalor. At least one of the resident's is a wheelchair ridden paralyzed man in need of psychotropic medication, who is emptying the contents of his catheter bag into a plastic bottle (Grimm, 2009). This is the effect of policy that is not based on evidence: when implemented, it does not and cannot produce the desired results.

Risk assessment has progressed substantially in recent years, and has been shown to accomplish the goals of effective monitoring and increased public safety (Bumby, 2008). Although science cannot predict if a specific individual will re-offend, it can put highly accurate predictions in place that could drive a more effective and efficient sex offender policy. For example, rapists of adult women and molesters of young boys have the highest risk for re-offending, and these groups could be effectively supervised if placed in a risk-based tier system (Levenson & D'Amora, 2007).

Educational efforts should also be included in any sexual crime prevention strategy. Just as the media has brought attention and action on this issue by sensationalizing real cases, the media can also be used to disseminate actual facts about the rarity of stranger abduction, the warning signs of sexual abuse, the many faces of perpetrators and the actual recidivism rates for sexual offenders (Levenson & D'Amora, 2007). The Florida Department of Corrections also supports integration of education efforts into their sex offender policies. In a recent briefing paper, they write "One of the most challenging areas and the biggest obstacle we face is the public's perception of sex offenders" (Florida Department of Corrections, 2008 November).

Finally, the continued use of GPS and other electronic monitoring coupled with polygraphs, active treatment by those qualified to treat sexual offenders and close supervision and collaboration is another component to an efficient and effective sex offender policy. Through active and passive GPS, officers can track where offenders travel. While GPS will not be able to prevent the occurrence of sexual offenses, it is a good step towards controlling and managing offenders (Levenson & D'Amora, 2007).

Programming for Sexual Offenders

There are two programs that incorporate components to create a more effective method of monitoring and treating released sex offenders: one in Iowa, and the other in Colorado. In Iowa they have established a dedicated program for the supervision, treatment, and accountability of sex offenders. The Sex Offender Treatment Program (SOTP) of the 2nd Judicial District in Iowa is a multifaceted operation, composed of sex offender officers, psychologists, and polygraph examiners, in addition to the other treatment facilitators. The in house psychologist and polygrapher help to facilitate the treatment and accountability of the offenders and the constant communication helps the parole officer determine risk for supervision purposes (Ryan, 2008).

The Iowa program also incorporates education, both of the offender's family and close associates and of the public as a whole. By involving the people close to the offenders, this Iowa program makes recidivism less likely. Through neighborhood

forums and victim-impact panels, staff of the SOTP program address issues such as "supervision of sex offenders, myths and facts related to sexual abuse, and the treatment format," making the community aware of what is happening and less likely to believe the media sensationalism. Using empirical support and the experiences of the professionals involved with sex offenders, Iowa has created and implemented a progressive and effective sex offender policy (Ryan, 2008).

Similarly, in Colorado, the program for the treatment of sex offenders includes a Management Board that oversees the program and bases policy decisions on factual information rather than public perception. For example, when legislators and probation officials were considering the topic of shared living arrangements, a full study was conducted that showed that shared living arrangements are beneficial to sex offenders and decrease the likelihood of recidivism. This led to the rejection of any policy that would ban sex offender cohabitation. This same study showed that residence restrictions were an ineffective means of controlling or monitoring offenders, and accordingly Colorado does not have residence restrictions (Colorado Dept. of Public Safety, 2004).

Further, parole officers in Colorado are given leeway in deciding the particular arrangements for each offender based on the risks they assess as relevant, and supervision is based on assessed risk rather than on a one-size-fits-all policy such as the one that currently exists in Florida. This program incorporates education through their Community Notification requirements, which apply only to those offenders who are at high risk for recidivism and therefore must inform the community of their presence. These community sessions consist of an informational presentation before the actual Sexually Violent Predator notification. This ensures that the community is protected and informed. The Colorado officials also encourage the use of either electronic monitoring devices or global positioning satellite units for high-risk offenders (Colorado Dept. of Public Safety, 2004).

Purpose of Study

Public perception and the increase of restrictions have led to a serious decrease in available housing for a large percentage of the sexual offender population, and since these restrictions now exist in over half of the United States, the problem is more pressing than ever (Bumby, 2008). This writer requested the results of a recent GIS analysis of available statewide property parcels with application of the restricted housing locations using only the 1000 foot statutory prohibition. The response provided by the FDOC Bureau of Probation and Parole Field Services developer of the GIS Sex Offender Residency Restrictions (SORR) application revealed that as much as fifty (50) percent of the state is off limits to sexual offenders (Sandell, K., personal communication April 6, 2009).

Law enforcement and corrections official cannot monitor sexual offenders if they do not know where they reside. There are 48,000 sexual offenders listed on the Florida Department of Law Enforcement's registry and over 22,000 of these offenders are in Florida communities (OPPAGA, 2008). This writer requested the number of sex offenders released from prison over the course of a year and the data extracted from the Department of Corrections data base by the Bureau of Research and Data Analysis,

identified 2,155 sexual offenders (at least one sexual offense current or prior) due for release from Florida prisons into Florida Communities between May 1st, 2009 and April 30, 2010, (Gregory, T. personal communication April 3, 2009). This does not include those offenders sentenced directly to probation or due to be released from county jails. Florida can no longer afford a "lock 'em up" philosophy as most offenders will ultimately be released into communities at some point. Approaches that are based on evidence, prevention, and the focus of resources to the highest risk offenders may serve the protection to Florida's children more effectively. Probation officers have a unique perspective on this situation as they are responsible for actually enforcing the restrictions, yet little has been researched in regards to their opinions and experiences. This study seeks to assess the effectiveness of current approaches, particularly of current residency restrictions, and discusses ways to improve Florida' sexual offender management policies.

Methods

For this research project, a survey was created for Correctional Probation Specialists supervising sexual offenders in Florida. A request to complete the survey along with the web- based survey link was sent to all twenty circuit administrators in order to include all judicial circuits in Florida. These administrators were asked to provide the link only to the specialists who were available to take the survey during the survey period and to report back the number of officers who were provided with the link. A total of 333 officers were offered the opportunity to take part in the survey. Going through the supervisors avoided sending the link to those officers who may have been on extended sick leave; military leave, or etc. so that a true picture of the response rate could be obtained.

The survey link connected the responder to a live web-based survey where the participant was provided with the required introductory information and invited to participate in the survey. The survey was anonymous and voluntary. No identifying data was collected and neither the administrators nor this author were able to ascertain which Probation Specialists responded and which did not.

Problems associated with the survey were negligible. Those noted were due to the mislabeling of question # 27. The mislabeled question was corrected on the survey after the first eleven responses were collected. When these first eleven responses were compared to the subsequent ones, it appeared as though the mislabeling did not impact how the first eleven participants responded and was not a significant problem.

Results

Demographics

Of the 333 Correctional Probation Specialists who were asked to complete the survey, a total of 259 chose to take part in the survey resulting in a response rate of 77%. Not all participants answered every question on the survey. Response

percentages are reported based on the number of officers who responded to a particular question.

The survey contained questions regarding demographic information including race, gender, age, marital status, residential information, and whether or not they had minor children. There were no significant correlations between any of these demographic factors and how the respondents answered questions regarding the sexual offender assigned to them for supervision. The officers surveyed had significant experience within their field: 60.6 percent had 6 or more years of specialization in supervising sex offenders, including 32.6 percent who have more than 11 years of experience. Every judicial circuit in the state was represented in the group of respondents.

In response to questions about their working conditions, 71.7 percent of the respondents reported that they work in an area that has local residency restrictions for sexual offenders in addition to statutory restrictions. The average number of sex offenders per officer caseload was 18.9 offenders.

Regarding Homeless Offenders

Surveyed officers reported 67 total homeless sex offenders as of January 12, 2009. When asked specifically about the homeless sex offenders they worked with, survey participants reported that the biggest reason sex offenders were unable to return to their homes where they lived prior to sentencing was that their residence was in violation of residence restrictions, either statutory (57.1 percent) or local ordinances (39.3 percent). They also reported that over twenty percent of them had a homeless sex offender who had absconded supervision.

Officers responded that 45.5 percent of their unemployed homeless sex offenders spent the majority of their time at the same residence where they are not allowed to live due to residency restrictions. There is nothing that prevents the offender from spending time at the location as long as they are not there during the sleeping hours, or outside of their curfew period. In regard to the transportation problems caused by residency restrictions, 63.6 percent of officer's responses indicated that their homeless sex offenders did not have access to transportation, and 24.4 percent reported that their homeless sex offenders utilized the public bus system.

Interestingly, 49.5 percent of the responses indicated that the officers had not filed a violation on a homeless sex offender, while 18.7 percent described having done so for an "other technical violation, and 10.7 percent for absconding supervision. Ninety-nine percent reported that when having to file a violation for a new arrest, it was not for a new sexual offense. Only 1 percent of responses (one total offense) reported violating a homeless sexual offender for a new sexual offense.

Regarding Stranger Abductions

Ninety point five (90.5) percent of the officers reported that they did not supervise a sex offender who had abducted a child victim who was a stranger, while 65 percent reported that they did not supervise a sex offender who had molested a child victim who was a stranger to the offender. 80.8 percent of the officers reported that they did not supervise a sexual offender who gained access to their child victim (not necessarily a

stranger) at a school, park, playground, or other place where children regularly congregate.

Regarding Residency Restrictions

Seventy-eight percent of officers surveyed cited Residency Restrictions as the "number one obstacle for supervised sex offenders," and 77.4 percent believe that supervised housing would be an effective method to improve the success of sex offender re-entry into society. Over half (59.3 percent) of the respondents reported having sex offenders who live together (Shared Living Arrangements) or with one or more other sexual offenders and 70.4 percent reported having asked a supervised sexual offender if they would be willing to house or share rent with another sex offender in order to help a sex offender find a place to live.

When asked to respond on a scale from "Strongly Agree" to "Strongly Disagree," the majority of respondents selected either Strongly Disagree or Disagree Somewhat for the following statements:

- Residency restrictions provide real protection to the public from sexual offenders, Sexual offenders should not be allowed to live together
- A homeless sex offender who had a child victim is less likely to molest another child because they are homeless
- All sex offenders present the same risk to the public and should be treated the same,
- Homeless sex offenders do not create a public risk.

In response to statements given with the same scale, a majority of respondents selected "Strongly Agree" or "Agree Somewhat" to the following statements:

- Residency restrictions give the public a false sense of security
- A sexual offender is more likely to be successful on supervision when allowed to live in a supportive home
- A tier system of risk should be developed in Florida for sexual offenders and restrictions should be imposed based on risk, not the current one size fits all approach
- Florida should have a Sex Offender Management Board to research and recommend sex offender policy and laws in this state (Appendix A, Table 1).

Officers were asked how many of their sex offenders were living next door to children and of the 231 officers responding to the question a total of 1,939 sex offenders (offender type not specified) were reported as living next door to children and finally, 234 officers reported that they have a total of 684 sex offenders (offender type not specified) on their caseload who reside in a home with children (Appendix A, Table 2).

Regarding Other Management Strategies

Officers were asked to rank the effectiveness of certain sex offender management options with (1) indicating the most effective and (10) being the least effective management strategy. The top three rankings were electronic monitoring, restrictions and conditions based on sex offender risk, and public notification, as the most effective strategies. Chemical castration, lifetime supervision, and residency restrictions were listed among the least effective strategies.

Discussion

The officers surveyed seem to find a link between residence restrictions and sex offender homelessness that is likely to lead to other negative consequences, including unemployment and violations. Further, they agree that residence restrictions are not a viable means of stopping sex offenders from re-offending. The conclusion drawn from this information is that residence restrictions are an effort to address the public's concern over sexual offense that is not supported by data or experience, and that it is ineffective in addressing this problem. This is in agreement with other research done on this topic. (Levenson & Hern, 2007; Colorado Dept. of Public Safety, 2004)

Those surveyed had positive feelings toward sex offender cohabitation, even though it has recently been outlawed in Hillsborough County (Bay News Nine, 2008). Shared Living Arrangements have been shown to deter recidivism in sex offenders, even those assessed to be at the highest risk of sexually re-offending. This, again, seems to say that experience and research contradict public perception of what is and is not effective for curbing the instances of sexual offenses. Shared Living Arrangements have been shown to deter rather than encourage former offenders from re-offending (Florida Dept. of Corrections, 2008; Colorado Dept. of Public Safety, 2004).

Officers also support a tier-system based on assess risk of sexual offenders rather than the current system, which treats all sexual offenders the same. Risk-assessed tier systems have been supported by empirical data in Iowa, Minnesota, and Colorado. Risk assessment of sexual offenders and the use of tiers is more cost-effective in that they direct the most resources to the offenders who need them, they are more effective at preventing re-offending by those under supervision and they allow for a more successful reintegration of offenders from all risk levels (Ryan, 2008; Colorado Dept. of Public Safety, 2004, Levenson & D'Amora, 2007, Minnesota Dept. of Corrections, 2007).

While there is no research directly in regards to the subject of probation and parole officers' opinions on sex offender restrictions (residence or otherwise), it is apparent that probation and parole officers who are supervising sex offenders do not demonstrate a

belief that residency restrictions are an effective sex offender management strategy and that they do give the public a false sense of security. Further, their experience corresponds with accepted statistics that strangers are not the most likely perpetrators of sexual offenses, particularly toward children.

Recommendations

The current policies towards sex offenders in Florida are too broad and overreaching, which leaves them ineffective and under-funded. Florida citizens would be best served through a multi-tiered, multi-faceted approach towards released sex offenders that accounts for the differences in the sexual offenders themselves as well as the offenses committed. Components of the policy should include, based on this study and comparable programs in other states:

- creation of a sex offender management board to drive evidenced based policy
- management of sex offenders; risk assessment of sexual offenders used to determine individual restrictions and conditions
- public education for adults and children to increase prevention efforts
- the use of supervision polygraphs and electronic monitoring.

Florida needs to adopt sex offender management strategies and programs that work; that is, sex offender programs that produce the desired effects: safety for the community and rehabilitation for the offenders. Florida should seek to change the existing sex offender policy and emulate those programs existing in states such as Colorado and Iowa in order to make the public safer, maximize efficiencies, decrease costs, eliminate waste, and to have an effective means of treating, controlling, and monitoring sex offenders. Incorporating the four recommendations suggested in this paper would be the first step towards such a program.

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Appendix A

Table 1: Probation Officer Opinions on Various Topics

22. Please select from the choices below what best represents your experience/opinion regarding the statements.							
	Strongly disagree	Disagree somewhat	Neither agree or disagree	Agree somewhat	Strongly agree	Rating Average	Response Count
Residency restrictions provide real protection to the public from sexual offenders.	46.4% (110)	27.0% (64)	8.4% (20)	12.2% (29)	5.9% (14)	2.04	237
Sexual offenders should not be allowed to live together.	43.9% (104)	29.1% (69)	13.5% (32)	7.6% (18)	5.9% (14)	2.03	237
A homeless sex offender who had a child victim is less likely to molest another child because they are homeless.	53.8% (126)	15.8% (37)	23.5% (55)	5.1% (12)	1.7% (4)	1.85	234
Residency restrictions give the public a false sense of security.	6.8% (16)	5.5% (13)	5.9% (14)	18.6% (44)	63.1% (149)	4.26	236
All sex offenders present the same risk to the public and should be treated the same.	60.4% (142)	22.1% (52)	4.7% (11)	7.7% (18)	5.1% (12)	1.75	235
A sexual offender is more likely to be successful on supervision when allowed to live in a supportive home.	4.3% (10)	3.8% (9)	9.8% (23)	37.9% (89)	44.3% (104)	4.14	235
Homeless sex offenders do not create a public safety risk.	61.4% (145)	26.3% (62)	7.2% (17)	0.8% (2)	4.2% (10)	1.60	236
Once a sex offender, always a sex offender.	11.8% (28)	17.3% (41)	23.2% (55)	30.8% (73)	16.9% (40)	3.24	237
A tier system of risk should be developed in Florida for sexual offenders and restrictions should only be imposed based on risk, not the current one size fits all approach	3.8% (9)	4.7% (11)	6.0% (14)	31.1% (73)	54.5% (128)	4.28	235
Florida should have a Sex Offender Management Board to research and recommend sex offender policy and law in this state.	5.9% (14)	5.1% (12)	16.9% (40)	26.2% (62)	46.0% (109)	4.01	237
					answered question		237
					skipped question		22

Table 2: Effectiveness of Containment/Management Strategies

27. Please rank the following sex offender restrictions starting with #1 for what you believe would be the most effective to #10, which you believe would be the least effective containment/management strategy for sexual offenders.

	1 most	2	3	4	5	6	7	8	9	10 least	Rating Average	Response Count
Active electronic monitoring	28.1% (58)	18.7% (35)	11.4% (24)	7.6% (16)	10.5% (22)	6.7% (14)	6.2% (13)	5.7% (12)	5.7% (12)	1.4% (3)	3.73	210
Public notification	4.9% (10)	18.2% (37)	11.3% (23)	14.3% (29)	14.8% (30)	11.3% (23)	10.8% (22)	4.9% (10)	5.9% (12)	3.4% (7)	4.77	203
Residency restrictions	2.9% (6)	4.8% (10)	8.8% (18)	8.6% (18)	7.1% (15)	6.7% (14)	12.9% (27)	10.7% (35)	18.1% (38)	13.6% (29)	6.72	210
Lifetime supervision	4.8% (10)	7.2% (15)	3.4% (7)	11.5% (24)	7.2% (15)	0.2% (17)	9.6% (20)	17.3% (36)	21.0% (45)	9.1% (19)	6.52	208
Sex offender registration	12.7% (27)	13.6% (28)	18.0% (40)	15.5% (33)	11.7% (25)	10.8% (23)	8.0% (17)	5.2% (11)	2.3% (5)	1.4% (3)	4.14	213
Chemical castration	6.5% (18)	4.3% (9)	2.8% (6)	1.4% (3)	3.6% (8)	3.3% (7)	4.3% (9)	6.2% (13)	13.3% (28)	62.1% (110)	7.90	211
No loitering zones	3.8% (8)	13.7% (29)	12.3% (26)	11.3% (24)	13.7% (29)	9.9% (21)	14.2% (30)	8.5% (18)	7.1% (15)	5.7% (12)	5.28	212
Quarterly polygraphs	1.4% (3)	7.9% (17)	10.7% (23)	13.5% (29)	17.7% (38)	14.0% (30)	13.5% (29)	11.6% (25)	7.4% (16)	2.3% (5)	5.53	215
Lifetime treatment	1.8% (4)	5.5% (12)	11.8% (26)	8.2% (18)	7.7% (17)	15.5% (34)	14.1% (31)	18.8% (41)	12.3% (27)	4.5% (10)	6.16	220
Restrictions and conditions imposed based on a sex offender risk	35.2% (80)	10.1% (23)	10.6% (24)	8.4% (19)	7.9% (18)	9.3% (21)	4.8% (11)	4.8% (11)	2.6% (6)	6.2% (14)	3.74	227
											answered question	234
											skipped question	25

Appendix B

My name is Amy Datz and I am a certified Correctional Probation Officer with over 23 years of experience in Probation and Parole. I am asking for your participation in a research project that in part, explores the opinions and experiences of CP Specialists supervising sexual offenders in Florida, and with regard to residency restrictions. The research project is being conducted by this writer independently and responsibility for the content rests with me.

This informed consent for participation as a research subject is required by, and in compliance with federal law.

Your participation is entirely voluntary. You can refuse to participate without any penalty or loss of benefits to which you are otherwise entitled. Your individual answers will not be shared with anyone in the DC and the researcher will not know your identity

You must acknowledge that you are at least 18 years of age, and that you do not have medical problems or language or educational barriers that precludes understanding of explanations contained in this authorization for voluntary consent.

PURPOSE OF THIS RESEARCH STUDY: The study is about the potential impact of sex offender residency restrictions. Taking part in this study may provide data to inform the subject area and may help administrators and others to learn more about the efficacy of residency restrictions.

PROCEDURES: In this study, you will be asked to complete a on line, anonymous survey. A group of testers have been able to complete the survey in 10-15 minutes. You will be invited to complete the survey via a website link attached to an e-mail. The results are collected by the web-site and delivered to the researcher in an excel spreadsheet. NO IP addresses are collected by survey monkey.

POSSIBLE RISKS OR DISCOMFORT: This study involves minimal risk. The respondents work with this subject matter on a daily basis.

POSSIBLE BENEFITS: Knowledge may be gained which could help administrators, lawmakers and others learn more about the efficacy and potential impacts of these restrictions.

FINANCIAL CONSIDERATIONS: There is no payment for nor cost to you as a result of your participation in this study. This survey is approved to be completed during work hours.

CONFIDENTIALITY and ANONYMITY: This study is confidential and anonymous. All answers will be used only for research, and you will not be asked for your name anywhere. Your identity will not be known. Survey Monkey uses Hypertext Transfer Protocol over Secure Socket Layer (HTTPS) to create a secure connection. It adds an additional layer to provide authentication and encrypted communication which is widely used on the World Wide Web for security-sensitive communication such as payment transactions. All information will be held in

strict confidence and will not be disclosed unless required by law or regulation. The answering of the survey is evidence of consent and your name is never linked to the research data. Anonymity means the researcher will collect NO identifying information from participants.

The results of this study may be published in scientific journals or presented at professional meetings. Your individual privacy will be maintained in all publications or presentations resulting from this study.

RIGHT TO WITHDRAW: You are free to choose whether or not to participate in this study. There will be no penalty or loss of benefits to which you are otherwise entitled if you choose not to participate.


CONTACTS FOR QUESTIONS/ACCESS TO CONSENT FORM: Any further questions you have about this study or your participation in it, either now or any time in the future, will be answered by Amy Datz who may be reached at (850) 410-3655 or datz.amy@mail.dc.state.fl.us.

The individual answers provided in this study will not be shared with your supervisors or any others within the Department or elsewhere. The data will only be reported in a collective manner.



Appendix C

Survey of Officers and Sex Offender Residency Restrictions



1. Are you a certified correctional probation officer currently assigned to the supervision of sex offenders?

	Response Percent	Response Count
Yes 	100.0%	259
No	0.0%	0
answered question		259
skipped question		0

2. I agree to participate in the survey.

	Response Percent	Response Count
Yes 	98.8%	256
No 	1.2%	3
answered question		259
skipped question		0

3. Do you currently work in an area that has local ordinance residency restrictions for sexual offenders?

	Response Percent	Response Count
Yes 	71.7%	167
No 	28.3%	66
answered question		233
skipped question		26

4. If Yes on question 3, please select county or counties where you work that have any county or municipal residency restrictions. Please select all that apply.

Counties	Alachua	Baker	Bay	Bradford	Brevard	Broward	Calhoun	Charlotte	Citrus	Clay	Collier	Columbia	Dade	De Soto
Counties	2.3% (4)	0.6% (1)	3.4% (6)	0.6% (1)	5.1% (9)	8.0% (14)	0.6% (1)	0.0% (0)	2.3% (4)	0.0% (0)	0.0% (0)	1.1% (2)	8.6% (15)	1.1% (2)
Counties	0.0% (0)	6.7% (1)	6.7% (1)	5.7% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)
Counties	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	20.0% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)

4. Continued

Counties	Dixie	Duval	Escambia	Flagler	Franklin	Gadsden	Gilchrist	Glades	Gulf	Hamilton	Hardee	Hendry	Hernando
Counties	0.0% (0)	0.7% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.6% (1)	0.0% (0)	0.0% (0)	0.6% (1)	0.0% (0)
Counties	0.0% (0)	0.7% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	13.3% (2)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)
Counties	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)

4. Continued

Counties	Highlands	Hillsborough	Holmes	Indian River	Jackson	Jefferson	Lafayette	Lake	Lee	Leon	Levy	Liberty	Madison
Counties	0.0% (0)	10.0% (10)	0.0% (0)	1.1% (2)	0.6% (1)	0.0% (0)	0.0% (0)	1.1% (2)	0.6% (1)	1.7% (3)	1.1% (2)	0.0% (0)	0.0% (0)
Counties	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	13.3% (2)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)
Counties	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)

4. Continued

Counties	Manatee	Marion	Martin	Monroe	Nassau	Ocala	Okeechobee	Orange	Osceola	Palm Beach	Pasco	Pinellas	Polk
Counties	0.0% (1)	2.9% (5)	0.0% (0)	0.0% (0)	1.7% (3)	1.7% (3)	0.0% (1)	5.7% (10)	1.1% (2)	3.4% (6)	1.7% (3)	2.3% (4)	4.0% (7)
Counties	Manatee	Marion	Martin	Monroe	Nassau	Ocala	Okeechobee	Orange	Osceola	Palm Beach	Pasco	Pinellas	Polk
Counties	6.7% (1)	6.7% (1)	0.0% (0)	0.0% (0)	6.7% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	6.7% (1)
Counties	Manatee	Marion	Martin	Monroe	Nassau	Ocala	Okeechobee	Orange	Osceola	Palm Beach	Pasco	Pinellas	Polk
Counties	20.0% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	20.0% (1)	0.0% (0)	0.0% (0)	0.0% (0)

4. Continued

Counties	Putnam	St. Johns	St. Lucie	Santa Rosa	Sarasota	Seminole	Sumter	Suwannee	Taylor	Union	Volusia	Wakulla	Walton	Washington	Response Count
Counties	0.6% (1)	0.6% (1)	1.1% (2)	0.0% (0)	0.0% (0)	2.9% (6)	0.6% (1)	1.1% (2)	0.6% (1)	0.0% (0)	5.1% (9)	0.0% (0)	0.0% (0)	0.0% (0)	175
Counties	Putnam	St. Johns	St. Lucie	Santa Rosa	Sarasota	Seminole	Sumter	Suwannee	Taylor	Union	Volusia	Wakulla	Walton	Washington	Response Count
Counties	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	6.7% (1)	0.0% (0)	0.0% (0)	6.7% (1)	0.0% (0)	6.7% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	15
Counties	Putnam	St. Johns	St. Lucie	Santa Rosa	Sarasota	Seminole	Sumter	Suwannee	Taylor	Union	Volusia	Wakulla	Walton	Washington	Response Count
Counties	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	20.0% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	20.0% (1)	0.0% (0)	0.0% (0)	0.0% (0)	0.0% (0)	5
answered question															176
skipped question															84

5. How many sex offenders do you currently have on your caseload?

number	Response Average	Response Total	Response Count
	18.69	4,373	234
	answered question		234
	skipped question		25

6. How many homeless sex offenders (living out of doors) do you currently have on your caseload? If zero, please input 0.

	Response Average	Response Total	Response Count
Provide Number	0.29	67	235
	<i>answered question</i>		235
	<i>skipped question</i>		24

7. If you have had any homeless sex offenders in the past year, please check the locations where they lived. Please check as many locations that apply.

	Response Percent	Response Count
Woods <input type="checkbox"/>	35.6%	47
Underpass <input type="checkbox"/>	19.7%	26
Bridge <input type="checkbox"/>	19.7%	26
Camp <input type="checkbox"/>	7.6%	10
Abandoned Property <input type="checkbox"/>	7.6%	10
Car <input type="checkbox"/>	21.2%	28
Shopping Center <input type="checkbox"/>	1.5%	2
Probation Office Property <input type="checkbox"/>	9.1%	12
Other <input type="checkbox"/>	37.0%	50
	<i>answered question</i>	132
	<i>skipped question</i>	127

8. Of the homeless sex offenders you have supervised in the past year, how many have absconded? Please select from the ranges below.

	Response Percent	Response Count
0	79.9%	138
1-2	17.8%	30
3-4	1.8%	3
5-more	1.2%	2
answered question		169
skipped question		90

9. In reference to homeless sex offenders, what is the longest period of time an offender you supervised was homeless? Please select from the ranges below.

	Response Percent	Response Count
Not applicable to this respondent	35.2%	68
1-7 days	20.7%	40
8-30 days	16.6%	32
31-90 days	10.9%	21
more than 90 days to 1 year	12.4%	24
more than 1 year	4.1%	8
answered question		193
skipped question		66

10. If you had any homeless sex offender(s) who had an established residence prior to sentencing that he/she could not return to, what was the most frequent reason that they could not return to their residence? Please rank the most often occurring reason from 1 to 5, with 1 being the least often occurring and 5 being the most often occurring reason.

	1 least	2	3	4	5 most	Rating Average	Response Count
Children living in the home	9.7% (9)	17.2% (16)	30.1% (28)	22.8% (21)	20.4% (19)	3.27	93
Family not wanting the offender to return	23.1% (18)	37.2% (29)	30.8% (24)	5.1% (4)	3.8% (3)	2.29	78
1,000 foot residency restrictions	2.7% (3)	5.4% (6)	7.1% (8)	27.7% (31)	57.1% (64)	4.31	112
Local ordinance residency restrictions	18.8% (22)	8.5% (10)	15.4% (18)	17.9% (21)	39.3% (48)	3.50	117
Community Harrassment	62.8% (59)	28.7% (27)	7.4% (7)	1.1% (1)	0.0% (0)	1.47	94
answered question							152
skipped question							107

11. Do you currently supervise a sexual offender who abducted a child stranger victim? Please select the number below.

	Response Percent	Response Count
0	90.5%	209
1	7.4%	17
2	1.3%	3
3	0.0%	0
4 or more	0.9%	2
answered question		231
skipped question		28

12. Do you currently supervise a sexual offender who molested a child stranger victim(s)? Please select the number below.

	Response Percent	Response Count
0	65.2%	152
1	14.6%	34
2	7.7%	18
3	2.1%	5
4 or more	10.3%	24
<i>answered question</i>		233
<i>skipped question</i>		20

13. How many sexual offenders do you currently supervise who gained access to the child victim at a school, playground, park, school bus-stop, or other place where children regularly congregate? Please select the number below.

	Response Percent	Response Count
0	80.8%	189
1	11.1%	26
2	5.1%	12
3	1.3%	3
4 or more	1.7%	4
<i>answered question</i>		234
<i>skipped question</i>		25

14. If you answered yes to question # 13 above, what was the location

	Response Percent	Response Count
Not applicable	74.9%	131
School	12.8%	22
Park	2.0%	5
Playground	0.6%	1
Daycare	0.0%	0
School bus-stop	0.6%	1
Other place where children regularly congregate	8.6%	15
answered question		175
skipped question		84

15. Do you currently supervise a sexual offender who lives in a "clustered" situation with one or more other sexual offenders? Please select the number below.

	Response Percent	Response Count
0	40.7%	96
1-2	28.6%	68
3-5	15.3%	36
6-10	8.9%	21
11-19	3.4%	8
20 or more	3.0%	7
answered question		236
skipped question		23

16. How many homeless sex offenders that you currently supervise are employed? Please enter the number below. If zero, enter 0.

	Response Average	Response Total	Response Count
Number	0.71	148	208
	<i>answered question</i>		208
	<i>skipped question</i>		61

17. If unemployed, where do your homeless sex offenders spend the majority of their time during the day, outside of the curfew period?

	Response Percent	Response Count	
Not applicable to this respondent <input type="checkbox"/>	72.9%	148	
To a residence where the offender may not reside due to residency restriction <input type="checkbox"/>	12.3%	25	
Attends school <input type="checkbox"/>	0.0%	0	
To a park without a playground <input type="checkbox"/>	1.0%	2	
Does not spend significant time anywhere, in particular <input type="checkbox"/>	7.9%	16	
Probation office <input type="checkbox"/>	4.4%	9	
Drives around in vehicle all day <input type="checkbox"/>	0.5%	1	
Hangs out at shopping center <input type="checkbox"/>	0.5%	1	
Other <input type="checkbox"/>	6.4%	13	
	<i>answered question</i>		203
	<i>skipped question</i>		66

18. If your homeless sex offenders have access to transportation, what are the 3 most often occurring modes of transportation utilized? Please select from the below. Please do not select more than 3

	Response Percent	Response Count
Not applicable to this respondent	53.5%	133
Family	20.6%	43
Friends	18.2%	38
Owens a Car	7.2%	15
Employer	1.0%	2
Public Bus System	24.4%	51
Other	9.1%	19
answered question		209
skipped question		50

19. If you have had to violate a homeless sex offender for a technical violation what was the most frequent or main reason for the violation? Select from the list below.

	Response Percent	Response Count
Not Applicable to this respondent	49.5%	106
Failure to move from a residence within a restricted area	4.2%	9
Contact with minors	0.9%	2
Contact with victim	0.0%	0
Failure to attend treatment	4.2%	9
Leaving the county without permission	0.9%	2
Absconding	10.7%	23
Drug or Alcohol use	2.3%	5
Curfew violation	8.4%	18
Other technical violation	18.7%	40
answered question		214
skipped question		46

20. If you have had to violate a homeless sex offender for a new arrest, what was the most frequent offense. Please select from the list below.

	Response Percent	Response Count
New sexual offense <input type="checkbox"/>	1.0%	1
New non-sexual offense <input type="checkbox"/>	99.0%	96
<i>answered question</i>		97
<i>skipped question</i>		162

21. Have you ever asked a supervised sexual offender if they would be willing to house or share rent with another sexual offender to help them find a place to live?

	Response Percent	Response Count
Yes <input type="checkbox"/>	70.4%	164
No <input type="checkbox"/>	29.6%	69
<i>answered question</i>		233
<i>skipped question</i>		26

22. Please select from the choices below what best represents your experience/opinion regarding the statements.

	Strongly disagree	Disagree somewhat	Neither agree or disagree	Agree somewhat	Strongly agree	Rating Average	Response Count
Residency restrictions provide real protection to the public from sexual offenders.	46.4% (110)	27.0% (64)	8.4% (20)	12.2% (29)	5.9% (14)	2.04	237
Sexual offenders should not be allowed to live together.	43.9% (104)	29.1% (69)	13.5% (32)	7.6% (18)	5.9% (14)	2.03	237
A homeless sex offender who had a child victim is less likely to molest another child because they are homeless.	53.8% (128)	15.8% (37)	23.5% (55)	5.1% (12)	1.7% (4)	1.85	234
Residency restrictions give the public a false sense of security.	6.8% (16)	5.5% (13)	5.9% (14)	18.6% (44)	63.1% (149)	4.26	236
All sex offenders present the same risk to the public and should be treated the same.	60.4% (142)	22.1% (52)	4.7% (11)	7.7% (18)	5.1% (12)	1.75	235
A sexual offender is more likely to be successful on supervision when allowed to live in a supportive home.	4.3% (10)	3.8% (9)	9.8% (23)	37.9% (89)	44.3% (104)	4.14	235
Homeless sex offenders do not create a public safety risk.	61.4% (145)	26.3% (62)	7.2% (17)	0.8% (2)	4.2% (10)	1.60	236
Once a sex offender, always a sex offender.	11.8% (28)	17.3% (41)	23.2% (55)	30.8% (73)	16.9% (40)	3.24	237
A tier system of risk should be developed in Florida for sexual offenders and restrictions should only be imposed based on risk, not the current one size fits all approach	3.8% (9)	4.7% (11)	6.0% (14)	31.1% (73)	54.5% (128)	4.28	235
Florida should have a Sex Offender Management Board to research and recommend sex offender policy and law in this state.	5.9% (14)	5.1% (12)	16.9% (40)	26.2% (62)	46.0% (109)	4.01	237
						answered question	237
						skipped question	22

23. What would you say is the number one obstacle for supervised sex offenders? Please select an answer from below.

	Response Percent	Response Count
Registration	0.0%	0
Public Notification	1.3%	3
Residency Restrictions	78.4%	185
Employment	14.4%	34
Curfew	0.4%	1
Electronic Monitoring	1.3%	3
Monetary Obligations	4.2%	10
	<i>answered question</i>	236
	<i>skipped question</i>	23

24. Please select your top three from the list below that might improve successful re-entry of sex offenders into society, while still providing for public safety. Please do not check more than 3.

	Response Percent	Response Count
Eliminate Public Notification	0.4%	1
Eliminate Local Residency Ordinance Restrictions	67.5%	158
Eliminate All Residency Restrictions	22.6%	53
Impose Child Safety No Loitering Zones	54.7%	128
Provide Supervised Housing	77.4%	181
State Assistance For Costs Associated With Treatment and Polygraphs	52.6%	123
Registration With and for Law Enforcement Purposes Only- No Public Notification	7.3%	17
	<i>answered question</i>	234
	<i>skipped question</i>	26

25. How many sex offenders currently on your caseload are living with children? Please enter number below. If zero, enter 0.

	Response Average	Response Total	Response Count
Number	2.92	684	234
	<i>answered question</i>		234
	<i>skipped question</i>		25

26. How many sex offenders currently on your caseload are living next door to children? Please enter number below. If zero, enter 0.

	Response Average	Response Total	Response Count
Number	8.39	1,939	231
	<i>answered question</i>		231
	<i>skipped question</i>		28

27. Please rank the following sex offender restrictions starting with #1 for what you believe would be the most effective to #10, which you believe would be the least effective containment/management strategy for sexual offenders.

	1 most	2	3	4	5	6	7	8	9	10 least	Ranking Average	Response Count
Active electronic monitoring	28.1% (58)	16.7% (35)	11.4% (24)	7.6% (16)	10.5% (22)	6.7% (14)	6.2% (13)	5.7% (12)	5.7% (12)	1.4% (3)	3.73	210
Public notification	4.9% (10)	18.2% (37)	11.3% (23)	14.3% (29)	14.8% (30)	11.3% (23)	10.8% (22)	4.9% (10)	6.9% (12)	3.4% (7)	4.77	203
Residency restrictions	2.9% (6)	4.8% (10)	8.6% (18)	8.6% (18)	7.1% (15)	6.7% (14)	12.9% (27)	16.7% (35)	18.1% (38)	13.8% (29)	6.72	210
Lifetime supervision	4.8% (10)	7.2% (15)	3.4% (7)	11.5% (24)	7.2% (15)	8.2% (17)	9.6% (20)	17.3% (36)	21.8% (45)	9.1% (19)	6.62	208
Sex offender registration	12.7% (27)	13.6% (29)	18.8% (40)	15.5% (33)	11.7% (25)	10.8% (23)	8.0% (17)	5.2% (11)	2.3% (5)	1.4% (3)	4.14	213
Chemical castration	8.5% (18)	4.3% (9)	2.8% (6)	1.4% (3)	3.9% (8)	3.3% (7)	4.3% (9)	6.2% (13)	13.3% (28)	62.1% (110)	7.90	211
No loitering zones	3.8% (8)	13.7% (29)	12.3% (26)	11.3% (24)	13.7% (29)	9.9% (21)	14.2% (30)	8.5% (18)	7.1% (15)	5.7% (12)	5.28	212
Quarterly polygraphs	1.4% (3)	7.9% (17)	10.7% (23)	13.5% (29)	17.7% (38)	14.0% (30)	13.5% (29)	11.8% (25)	7.4% (16)	2.3% (5)	5.53	215
Lifetime treatment	1.8% (4)	5.5% (12)	11.8% (25)	8.2% (18)	7.7% (17)	15.5% (34)	14.1% (31)	18.8% (41)	12.3% (27)	4.5% (10)	6.16	220
Restrictions and conditions imposed based on a sex offender risk	35.2% (80)	10.1% (23)	10.6% (24)	8.4% (19)	7.9% (18)	8.3% (21)	4.8% (11)	4.8% (11)	2.6% (6)	6.2% (14)	3.74	227
	<i>answered question</i>											234
	<i>skipped question</i>											25

28. How many years of experience do you have in supervising criminal offenders?

	Response Percent	Response Count
1-5 years	1.3%	3
6-10 years	7.6%	18
11-15 years	20.6%	49
16+ years	71.0%	169
answered question		238
skipped question		21

29. How many years of experience do you have in supervising sexual offenders?

	Response Percent	Response Count
1-2 years	9.7%	23
3-5 years	30.1%	71
6-10 years	28.0%	66
11+ years	32.6%	77
answered question		236
skipped question		23

30. In which judicial circuit do you work?

Judicial Circuit



	01	02	03	04	05	06	07	08	09	10
Work location	4.7% (11)	4.7% (11)	2.6% (6)	9.4% (22)	8.4% (15)	8.9% (21)	6.8% (16)	3.4% (8)	6.0% (14)	3.8% (9)

30. Continued




Judicial Circuit

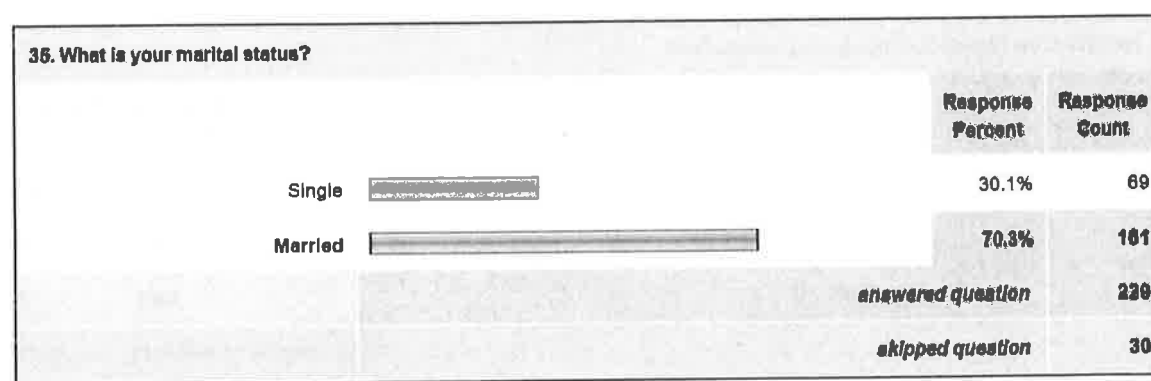
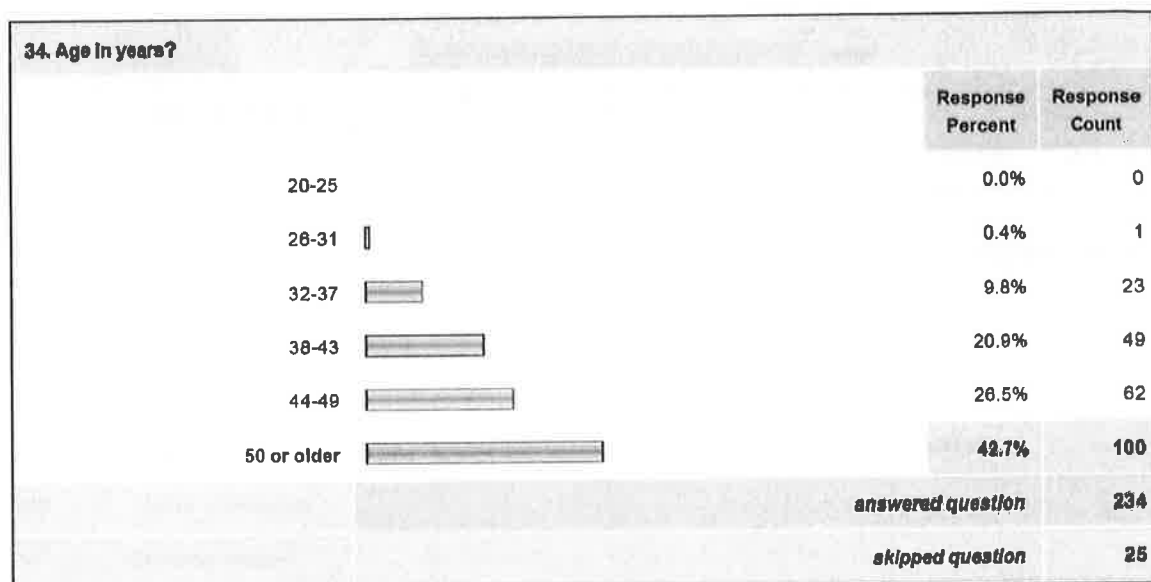
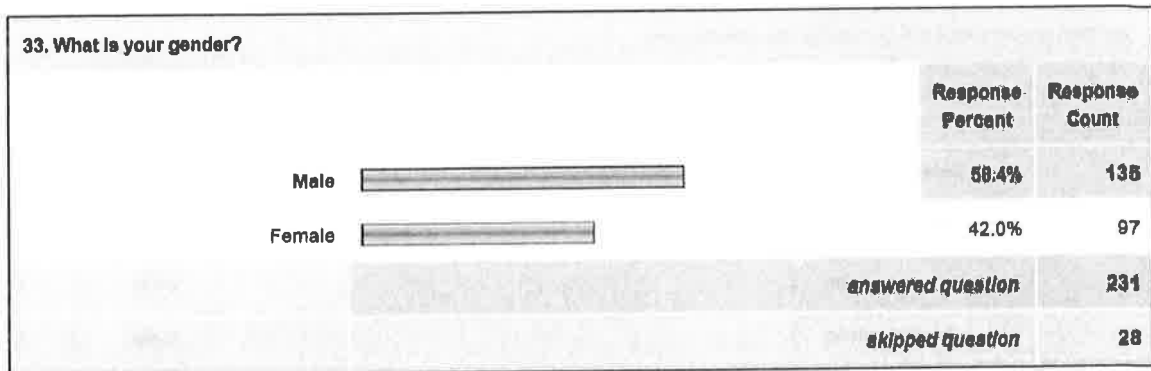
	11	12	13	14	15	16	17	18	19	20	Response Count
Work location	5.5% (13)	2.6% (6)	9.4% (22)	4.3% (10)	2.6% (6)	0.9% (2)	6.4% (15)	5.5% (13)	3.0% (7)	3.8% (9)	236
<i>answered question</i>											235
<i>skipped question</i>											24

31. Where do you live?

	Response Percent	Response Count
Urban Area 	66.6%	162
Rural Area 	31.8%	75
<i>answered question</i>		236
<i>skipped question</i>		23

32. Residential situation?

	Response Percent	Response Count
Rent 	4.8%	11
Own 	94.8%	218
Other 	0.9%	2
<i>answered question</i>		230
<i>skipped question</i>		29



36. What is your race? (US Census Bureau descriptors)

	Response Percent	Response Count
American Indian <input type="checkbox"/>	0.4%	1
Alaskan Native <input type="checkbox"/>	0.4%	1
Asian <input type="checkbox"/>	0.4%	1
Pacific Islander <input type="checkbox"/>	0.4%	1
Black <input type="checkbox"/>	28.6%	66
White <input type="checkbox"/>	70.1%	162
	answered question	231
	skipped question	28



37. What is your ethnicity? (US Census Bureau descriptors)

	Response Percent	Response Count
Hispanic Origin <input type="checkbox"/>	4.9%	11
Not Hispanic Origin <input type="checkbox"/>	95.6%	216
	answered question	228
	skipped question	33

38. What is the highest level of education completed?

	Response Percent	Response Count
Bachelors <input type="checkbox"/>	80.9%	191
Masters <input type="checkbox"/>	18.6%	44
Ph.D. <input type="checkbox"/>	0.8%	2
	answered question	236
	skipped question	23

39. Do you have any minor children?

		Response Percent	Response Count
Yes		48.7%	114
No		51.7%	121
<i>answered question</i>			234
<i>skipped question</i>			25



SOMAPI RESEARCH BRIEF

SEX OFFENDER MANAGEMENT ASSESSMENT AND PLANNING INITIATIVE
Luis C. deBaca, Director • July 2015

The Effectiveness of Treatment for Adult Sexual Offenders

by Roger Przybylski

Introduction

Therapeutic interventions aimed at reducing the likelihood of reoffending are a staple of contemporary sex offender management practice. Although there is strong scientific evidence that therapeutic interventions work for criminal offenders overall, the effectiveness of treatment for sex offenders has been subject to debate.

This brief addresses the effectiveness of treatment for adult sexual offenders. Based on a review of the scientific literature, it summarizes what is scientifically known about the topic and identifies policy implications and knowledge gaps that have emerged from the extant research.

Summary of Research Findings

The effectiveness of treatment for sex offenders has been assessed in both individual studies and synthesis research. There is general agreement in the research community that, among individual studies, well-designed and executed randomized controlled trials (RCTs) provide the most trustworthy evidence about an intervention's effectiveness.¹ Findings from a single study, however, must be replicated before definitive conclusions about the effectiveness of an intervention can be made.² Synthesis studies, such as a systematic review³ or meta-analysis,⁴ examine the findings from many individual studies and are undertaken to reach conclusions about an intervention's effectiveness based on an entire body of relevant research. When systematic reviews and meta-analyses are done well, they arguably provide

About SOMAPI

In 2011, the SMART Office began work on the Sex Offender Management Assessment and Planning Initiative (SOMAPI), a project designed to assess the state of research and practice in sex offender management. As part of the effort, the SMART Office contracted with the National Criminal Justice Association (NCJA) and a team of subject-matter experts to review the literature on sexual offending and sex offender management and develop summaries of the research for dissemination to the field. These summaries are available online at <http://smart.gov/SOMAPI/index.html>.

A national inventory of sex offender management professionals also was conducted in 2011 to gain insight about promising practices and pressing needs in the field. Finally, a Discussion Forum involving national experts was held in 2012 for the purpose of reviewing the research summaries and inventory results and refining what is currently known about sex offender management.

Based on the work carried out under SOMAPI, the SMART Office has published a series of Research Briefs, each focusing on a topic covered in the sexual offending and sex offender management literature review. Each brief is designed to get key findings from the literature review into the hands of policymakers and practitioners. Overall, the briefs are intended to advance the ongoing dialogue related to effective interventions for sexual offenders and provide policymakers and practitioners with trustworthy, up-to-date information they can use to identify what works to combat sexual offending and prevent sexual victimization.

SMART
Office of Sex Offender Sentencing, Monitoring,
Apprehending, Registering, and Tracking

the most trustworthy evidence about an intervention's effectiveness.

Findings From Individual Studies

One of the few studies to use an RCT design to evaluate the effectiveness of treatment for adult sex offenders was conducted by Marques and colleagues (2005). Widely known as the California Sex Offender Treatment and Evaluation Project (SOTEP), the study examined the effects of a cognitive-behavioral/relapse prevention program on the recidivism of sex offenders who were serving prison sentences for child molestation or rape. Based on a mean follow-up period of approximately 8 years, the study found no significant differences in sexual or violent recidivism between treated sex offenders and two untreated control groups.

Due to its use of random assignment, the SOTEP study is frequently cited as evidence that treatment for sex offenders is ineffective. However, Marques and her colleagues (2005) have pointed out that the study's treatment and control groups likely differed in important ways, and the treatment program itself did not fully adhere to the risk-need-responsivity (RNR) principles of effective intervention. Moreover, some of the treatment subgroups—such as high-risk offenders who “got it,” meaning that they derived benefit from the program or basically met specified treatment goals—recidivated at a significantly lower rate than offenders who “did not get it.”

Given the findings from the SOTEP study, it is important to recognize that treatment effectiveness can be dependent on a variety of factors, including the treatment climate, program delivery, and how the participant responds to treatment (Friendship, Mann, and Beech, 2003, p. 4). In their study of community-based treatment, for example, Beech and colleagues (2001) found that offenders who were responsive to treatment (based on change in pro-offending attitudes) were less likely to sexually recidivate than offenders who were not.

Several recent studies conducted in prison-based settings also suggest that treatment works.⁵ For example—

- A study of a program in a Canadian prison that employed a cognitive-behavioral approach and subscribed to the RNR principles of effective intervention found that treatment produced significant reductions in sexual recidivism (Oliver,

Wong, and Nicholaichuk, 2008). Treated sex offenders in the study had sexual reconviction rates of 16.9 percent after 5 years and 21.8 percent after 10 years, compared to sexual reconviction rates for the untreated sex offenders of 24.5 percent after 5 years and 32.3 percent after 10 years of followup.

- A study of a prison-based therapeutic community treatment program in Colorado found that participation in treatment was significantly related to success on parole (Lowden et al., 2003). Sex offenders who completed treatment and participated in aftercare had revocation rates three times lower than untreated sex offenders. Each additional month spent in treatment increased the likelihood of success upon release by 1 percent (12 percent per year).
- In Minnesota, Duwe & Goldman (2009) found that participating in treatment significantly reduced the likelihood and pace of recidivism. For offenders who completed treatment, the observed sexual, violent, and general rearrest recidivism rates were 13.4 percent, 29 percent, and 55.4 percent, respectively. By comparison, the observed sexual, violent, and general rearrest rates for sex offenders who did not participate in treatment were 19.5 percent, 34.1 percent, and 58.1 percent. This study is important because it used propensity score matching (PSM) to create the study's comparison group. PSM is a sophisticated statistical technique for achieving greater equivalence between the treatment and comparison offenders.

Findings From Synthesis Research

Although early reviews of sex offender treatment outcome research produced inconclusive results,⁶ synthesis research conducted more recently has produced more positive, albeit qualified findings.⁷ In a meta-analysis of 43 studies of psychological treatment for sex offenders, for example, Hanson and colleagues (2002) found that treatment produced a small but statistically significant reduction in both sexual and overall recidivism.⁸ The researchers also reported that newer treatment programs were found to have a positive treatment effect, whereas older treatment programs were associated with a small but nonsignificant increase in sexual recidivism.

Although the Hanson et al. (2002) meta-analysis was criticized by Rice and Harris (2003) for relying on poor-quality studies, three important meta-analyses that

incorporated methodological quality considerations have been carried out in recent years, and each found evidence of a positive treatment effect.

Lösel and Schmucker (2005) conducted one of the largest meta-analyses assessing the effectiveness of sex offender treatment ever undertaken. Altogether, 69 studies and a combined total of 22,181 subjects were included in the analysis. The researchers found an average sexual recidivism rate of 11.1 percent for treated sex offenders and 17.5 percent for untreated sex offenders, based on an average followup period of slightly more than 5 years.⁹ The average recidivism rates for violent crime and any crime were 6.6 percent and 22.4 percent for treated sex offenders, compared to 11.8 percent and 32.5 percent for untreated sex offenders, respectively. Lösel and Schmucker also found that, among psychological treatments, cognitive-behavioral treatments and behavior therapy had significant treatment effects. Treatment effects also were greater for sex offenders who completed treatment, as dropping out of treatment doubled the odds of recidivating.

Two other important meta-analyses that were based on high-quality studies were conducted by MacKenzie (2006) and Hanson and colleagues (2009). MacKenzie's analysis found that treated sex offenders had a significantly lower rate of recidivism than untreated sex offenders: 12 percent compared to 22 percent.¹⁰ In one analysis based on only the highest quality studies, MacKenzie found that cognitive-behavioral/relapse prevention treatment, behavioral treatment, and hormonal medication significantly reduced sexual recidivism. Hanson and his colleagues (2009) also found that treatment worked. Treated sex offenders had average sexual and overall recidivism rates of 10.9 percent and 31.8 percent, based on an average follow-up period of 4.7 years, compared to 19.2 percent and 48.3 percent for the untreated offenders.¹¹ The researchers also found that adhering to the RNR principles of effective intervention increased treatment effectiveness. Although treatment that adhered to one or two of the principles was more effective than treatment that did not adhere to any of the principles, treatment that adhered to all three principles was most effective. These findings are supported in a study of the risk principle by Lovins, Lowenkamp, and Latessa (2009), which found that high-risk sex offenders who completed intensive residential treatment were more than two times less likely to recidivate than high-risk sex offenders who were not

provided intensive treatment. Conversely, low-risk sex offenders who were given intensive treatment were 21 percent *more* likely to recidivate than low-risk sex offenders who were not given intensive treatment.

In addition, a systematic review conducted by Luong and Wormith (2006) found that sex offenders who received treatment recidivated at a significantly lower rate than sex offenders who did not receive treatment. Again, cognitive-behavioral approaches were associated with significant reductions in both sexual and general recidivism. Prentky, Schwartz and Burns-Smith (2006) conducted a narrative review of treatment effectiveness studies and concluded that "the most reasonable estimate at this point is that treatment can reduce sexual recidivism *over a 5-year period by 5–8%*" (p. 5).

Finally, there is evidence suggesting that the use of the Good Lives Model (GLM) in sex offender treatment has become more prevalent in recent years. Rather than focusing solely on risk avoidance and management, the GLM attempts to equip sex offenders with the skills, attitudes, and resources needed to lead a prosocial, fulfilling life, thereby reducing the likelihood of reoffending. Although there is growing interest in the GLM approach, studies that have been undertaken to date have focused on validating the model for sex offenders or discovering within-treatment change,¹² but little is currently known about the efficacy of GLM for reducing the recidivism of sex offenders.

Limitations and Research Needs

Even though the knowledge base regarding treatment effectiveness has greatly improved, more high-quality studies—both well-designed and executed RCTs, and highly rigorous quasi-experiments that employ equivalent treatment and comparison groups on treatment effectiveness—are needed. Propensity score matching and other advanced techniques for controlling bias and achieving equivalence between treatment and comparison subjects can help enhance the credibility of evidence produced by studies that do not employ random assignment. Systematic reviews and meta-analyses that are based on prudent exclusionary criteria and that employ the most rigorous analytical methods available are also needed. Future research should also attempt to build a stronger evidence base on the differential impact of treatment on different types of sex

offenders. Specifying what types of treatment work, for which type of offenders, in which situations, is a key research priority.

Subgroup analyses are particularly important because the positive effects of treatment for a particular subgroup of offenders can be masked in a finding that treatment failed to have a positive impact for the overall treatment sample. Researchers must be diligent, however, not to selectively emphasize treatment benefits for a subgroup of study subjects while ignoring findings for the larger treatment sample (Sherman, 2003; p. 13). New treatment models, such as the GLM, also need to be rigorously evaluated to assess their effectiveness at reducing recidivism.

Summary and Conclusions

This review examined the evidence on treatment effectiveness from both individual studies and synthesis research. Although there is agreement among researchers that the knowledge base is far from complete, the evidence suggests that that treatment for sex offenders—particularly cognitive-behavioral/relapse prevention approaches—can produce reductions in both sexual and nonsexual recidivism. Treatment, however, does not affect all sex offenders in the same way. Treatment may have a differential impact, depending on the characteristics of the treatment participant and other contextual factors. Hence, rather than following a one-size-fits-all approach, treatment is apt to be most effective when it is tailored to the risks, needs, and offense dynamics of individual sex offenders. There is also evidence that the RNR principles are important for sex offender treatment. Hanson et al. (2009) found that treatment that adhered to the RNR principles of effective intervention showed the largest reductions in recidivism. In discussing their findings, Hanson and colleagues stated that “we believe that the research evidence supporting the RNR principles is sufficient so that they should be a primary consideration in the design and implementation of intervention programs for sex offenders” (p. 25).

Notes

1. See, for example, Sherman et al. (1998), MacKenzie (2006), and Farrington and Welsh (2007).

2. See, for example, Lipsey (2002), Petrosino and Lavenberg (2007), and Beech et al. (2001).

3. Narrative reviews were the most common form of synthesis research in the past, but today researchers primarily rely on a more objective and quantitative process called a systematic review. Unlike a narrative review, a systematic review adheres to a pre-established protocol to locate, appraise, and synthesize information from all relevant scientific studies on a particular topic (Petrosino & Lavenberg, 2007). For an example of a systematic review, see Lösel and Schmucker (2005) or MacKenzie (2006).

4. Systematic reviews are increasingly incorporating a statistical procedure called meta-analysis, which helps to reduce bias and the potential for erroneous conclusions. In practice, meta-analysis combines the results of many evaluations into one large study with many subjects, thereby counteracting a common methodological problem in evaluation research: small sample sizes.

5. In addition to Oliver, Wong, and Nicholaichuk (2008), see McGrath et al. (2003) and Zgoba and Simon (2005).

6. See, for example, Furby, Weinrott, and Blackshaw (1989) and the General Accounting Office (1996).

7. One exception to the pattern of recent positive review findings comes from a systematic review focused on psychological interventions for sex offenders, conducted by Kenworthy and colleagues (2004). Nine studies, all RCTs, were included in the analysis and the researchers concluded that, due to limited data, the effects of treatment are unclear.

8. Average followup periods ranged from 1 to 16 years, with a median of 46 months.

9. These recidivism rates are based on the sample size-weighted average for treated and comparison groups. The unweighted average recidivism rates were 12 percent for the treated groups and 24 percent for comparison groups. The average followup period for treated sex offenders was 63.54 months (5.3 years), and the average followup period for untreated offenders was 62.41 months (5.2 years).

10. MacKenzie also examined how various substantive and methodological characteristics of the studies affected treatment outcomes. In one analysis, the effects of various treatment types were examined

using only studies having high-quality methodology. Based only on these high-quality studies, MacKenzie found that cognitive-behavioral/relapse prevention treatment, behavioral treatment, and hormonal medication significantly reduced sexual recidivism. For sex offenders receiving cognitive-behavioral/relapse prevention treatment, the average recidivism rate was 9 percent, compared with an average recidivism rate of 21 percent for untreated sex offenders.

11. Average followup periods ranged from 1 to 21 years, with a median of 4.7 years.

12. See Yates and Kingston (2006), Yates et al. (2009), and Kingston, Yates, and Firestone (2011).

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ABOUT SMART

The Adam Walsh Child Protection and Safety Act of 2006 authorized the establishment of the Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office within OJP. SMART is responsible for assisting with implementation of the Sex Offender Registration and Notification Act (SORNA), and also for providing assistance to criminal justice professionals across the entire spectrum of sex offender management activities needed to ensure public safety.

The Impact of Sex Offender Residence Restrictions: 1,000 Feet From Danger or One Step From Absurd?

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Abstract: Several states have enacted public policies that prohibit sex offenders who have abused children from living within close proximity to a school, park, day care center, or school bus stop. The purpose of this exploratory study was to describe the impact of residence restrictions on sex offender reintegration and to better understand sex offenders' perceptions of these laws. A survey of 135 sex offenders in Florida was conducted. Most of the molesters who responded to the survey indicated that housing restrictions increased isolation, created financial and emotional stress, and led to decreased stability. Respondents also indicated that they did not perceive residence restrictions as helpful in risk management and, in fact, reported that such restrictions may inadvertently increase triggers for reoffense. Implications for policy and practice are discussed.

Keywords: *sex offender; 1,000-ft rule; proximity; residence restrictions; reintegration; rehabilitation*

Public concern about the threat posed by sex offenders has inspired varied legislation designed to combat recidivistic sexual violence. For example, policies mandating sex offender registration, community notification, civil commitment, castration, "three-strikes and you're out," and nondiscretionary sentencing have been introduced. The newest wave of such statutes has come in the form of laws controlling where sex offenders can live. These restrictions prohibit sex offenders from residing within specific distances from schools or places where children congregate.

Thus far, 14 states (Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Ohio, Oklahoma, Oregon, and Tennessee) have enacted buffer zones that prohibit sex offenders from residing within close proximity to a school, park, day care center, or school bus stop. The least restrictive distance requirement is in Illinois (500 ft), but most common are 1,000- to 2,000-ft boundaries. California law does not allow certain sex offenders on parole to live within a quarter mile of an elementary school and prohibits parolees from living within 35 miles of a victim or witness.

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There have been only a few studies investigating the relationship between housing and sex offending, and the results are mixed. In Arkansas, it was found that 48% of child molesters lived in close proximity to schools, day care centers, or parks compared with 26% of perpetrators convicted of sex crimes against adult victims (Walker, Golden, & VanHouten, 2001). The authors speculated that molesters who were motivated to reoffend might be more likely to purposely place themselves in close access to potential child victims. However, in Colorado it was found that molesters who reoffended while under supervision were randomly scattered throughout the study area and did not seem to live closer than nonrecidivists to schools or child care centers (Colorado Department of Public Safety, 2004). In Minnesota, sex offenders' proximity to schools or parks was not a factor in recidivism, nor did it affect community safety (Minnesota Department of Corrections, 2003). In fact, the opposite was found to be true: A sex offender was more likely to travel to another neighborhood in which he could seek victims without being recognized.

Public safety and child protection are understandably the primary considerations when sex offender restrictions are imposed. However, concerns have been raised that such mandates might exacerbate the shortage of housing options for sex offenders and force them to move to rural areas where they would be increasingly isolated with few employment and treatment options (Minnesota Department of Corrections, 2003). The dispersal of parks and schools may lead to overlapping restriction zones thus making it essentially impossible for sex offenders in some cities to find suitable housing. In some urban areas, offenders might be forced to cluster in high-crime neighborhoods. Such restrictions can lead to homelessness and transience, which interfere with effective tracking, monitoring, and close probationary supervision. Other scholars have concurred that sex offender statutes inadvertently may increase risk by aggravating the stressors (e.g., isolation, disempowerment, shame, depression, anxiety, lack of social supports) that can trigger some sex offenders to relapse (Edwards & Hensley, 2001; Freeman-Longo, 1996). The Colorado study recommended that residence restrictions do not appear to be a viable method for controlling sexual offender recidivism (Colorado Department of Public Safety, 2004).

Although sexual predator statutes are based on the presumption that sex offenders are repeatedly arrested in alarmingly high numbers, research suggests that sex offense recidivism rates are lower than commonly believed (Bureau of Justice Statistics, 2003; Hanson & Bussiere, 1998). As well, ambiguity about the effectiveness of sex offender treatment (Furby, Weinrott, & Blackshaw, 1989) has led to pessimistic attitudes about the possibility of rehabilitation despite recent research suggesting more promising results (Hanson et al., 2002). Over the past decade, great gains have been made in the ability to assess and identify high-risk sex offenders (Epperson et al., 1999; Hanson, 1997; Hanson & Bussiere, 1998; Hanson & Harris, 1998, 2001; Hanson & Morton-Bourgon, 2004; Hanson & Thornton, 1999). Unfortunately, such research has not been consistently incorporated into policy development or implementation.

Most states continue to tighten their restrictions of sex offenders, whereas only a few states have questioned the benefits and consequences of proximity statutes. Recently, a U.S. District Court of Appeals judge in Iowa declared such restrictions unconstitutional and ordered that Iowa's statute, which prohibited sex offenders from living within a restricted zone of 2,000 ft, not be enforced (*Doe v. Miller & White*, 2004). The court opined that the law was punitive, it imposed restraints leading to housing disadvantages for sex offenders, and it hindered the right to conduct family affairs without interference from the state. Although the court noted that the public has a reasonable interest in restricting sex offenders' access to children, it found that the law went beyond what is necessary to protect the community and cited the lack of research indicating a relationship between proximity and recidivism. Constitutional issues notwithstanding, the impact of such statutes on offenders and communities remains largely unknown.

PURPOSE OF THE STUDY

The purpose of this exploratory study was twofold: to describe the impact of residence requirements on sex offender reintegration and to better understand sex offenders' perceptions of such restrictions. Specific hypotheses were not tested, but, using quantitative and qualitative techniques, the study attempted to ascertain (a) the proportion of sex offenders who report having suffered adverse effects as a result of housing restrictions and (b) the opinions of sex offenders about the utility of such restrictions. Florida was considered an ideal venue in which to conduct such research, because its residency limitations (often referred to as *1,000-ft rules*) are quite restrictive and have been in effect since 1997. The study was considered important because it can help policy makers to better understand the positive and negative, intended and unintended, consequences of proximity legislation. Such data ultimately can inform the development of evidence-based social policy and contribute to the effective management of sex offenders in the community.

METHOD

PARTICIPANTS

A nonrandom sample ($N = 135$) was drawn from a pool of sex offenders from two outpatient sex offender counseling centers in Fort Lauderdale, Florida ($n = 40$) and Tampa, Florida ($n = 95$). All clients attending treatment at the facilities were invited to complete a survey about the impact of sexual offender policies on their community reintegration. Out of those who voluntarily completed the survey ($n = 183$), this sample was made up of 135 who indicated that they were subject to residency restrictions. Clients had been on probation for an average of 40

months (median = 32 months, $SD = 37$ months). Slightly more than half had been in their current treatment group for 2 years or less, and 47% had been in treatment for more than 2 years.

Most of the respondents were between the ages of 25 and 64; 10% were younger than 25, and 6% were age 65 or older. About 68% were White, 14% were Black, 14% were Hispanic, and 4% described their race as "other." Marital status included 24% who were currently married with 35% reporting that they had never been married, 37% stating that they were divorced or separated, and 4% describing themselves as widowed. More than one third of the participants had graduated from high school (19%) or obtained a General Equivalency Diploma (16%), 33% had attended some college, and 14% were college graduates. About 77% reported an annual household income of less than \$30,000 per year. About 97% were identified as child molesters. The remaining 3% identified themselves as having an index victim older than the age of 18, although they had minor victims as well. Other reported offenses included voyeurism (9%), exposure (13%), and computer-related sex crimes (9%). The percentages do not add up to 100% because about 20% of participants endorsed more than one type of offense. Offender and victim characteristics are displayed in Table 1.

In Florida, residence restrictions apply only to sex offenders who were sentenced after October 1, 1997, for crimes involving victims younger than the age of 18 (*Special Conditions of Sex Offender Probation*, 1997). At the time of the data collection, the conditions of probationary supervision in Florida precluded sex offenders with minor victims from living within 1,000 ft of a school, day care center, park, playground, or other place where children regularly congregate. Shortly after the data were collected, Florida's law was amended by adding school bus stops to the list of prohibitions for child molesters released from prison (*Conditional Release Program*, 2004).

INSTRUMENTATION

A survey was designed by the authors for the purpose of collecting data regarding the impact of residence restrictions on sex offenders. Client demographic data and information regarding offense history were elicited using forced-choice categorical responses to ensure anonymity. Participants were asked to rate 3-point and 5-point Likert scales indicating their degree of agreement with the issue in question and were also given the opportunity to provide narrative responses.

DATA COLLECTION PROCEDURES

Clients were invited to complete the survey during a group therapy session. Respondents were instructed not to write their names on the survey and to place the completed questionnaire in a sealed box with a slot opening. The research was conducted in accordance with federal guidelines for the ethical treatment of human participants.

TABLE 1
OFFENDER AND VICTIM CHARACTERISTICS

<i>Offender</i>	<i>Percentage</i>
Age	
Younger than 25	10%
25-64	84%
65 or older	6%
Race	
White	68%
Minority	32%
Currently married	24%
Education	
High school or equivalent	35%
Attended college or college graduate	47%
<i>Victim</i>	<i>Percentage</i>
Victim age	
Younger than 5	6%
Age 6-12	37%
Minor teen	54%
Relationship	
Extrafamilial only	67%
Intrafamilial only	20%
Both extra- and intrafamilial	12%
Gender	
Male only	14%
Female only	77%
Both genders	11%

DATA ANALYSIS

Descriptive and correlational statistics were used to interpret the quantitative results of the survey. Data analyses were conducted using SPSS version 12.

RESULTS

Overall, 50% of the respondents reported that proximity restrictions had forced them to move from a residence in which they were living, and 25% indicated that they were unable to return to their residence after their conviction (see Table 2). Nearly half reported that residence restrictions prevented them from living with supportive family members. A considerable proportion reported that the

TABLE 2
IMPACT OF RESIDENCE RESTRICTIONS ($N = 135$)

<i>Item</i>	<i>Yes</i>
I have had to move out of a home that I owned because of the 1,000-ft rule.	22%
I have had to move out of an apartment that I rented because of the 1,000-ft rule.	28%
When released from prison, I was unable to return to my home.	25%
I have been unable to live with supportive family members because of the 1,000-ft rule.	44%
I find it difficult to find affordable housing because of the 1,000-ft rule.	57%
I have suffered financially because of the 1,000-ft rule.	48%
I have suffered emotionally because of the 1,000-ft rule.	60%

geographical limitations created a financial hardship for them, and nearly 60% agreed or strongly agreed that they have suffered emotionally because of the restrictions.

Age was significantly related ($p < .05$) to being unable to live with family ($r = -.17$) and difficulty finding affordable housing ($r = -.19$) with younger offenders being more likely to report these events. There was also a significant inverse relationship between being married and the inability to find affordable housing ($r = -.19$), and minority race was related to having to move from a residence ($r = .20$). There was no significant relationship between adverse events and income, education, or length of time on probation.

In addition to the structured survey responses, narrative comments were also examined. There were 2 respondents who agreed that residency restrictions were a deterrent to offending, commenting, "It doesn't tempt you" and "It's good because you can't just walk from your home to a school." Overwhelmingly, however, the participants reported that they did not find the 1,000-ft rule to be practical or helpful, although some suggested that such restrictions should be imposed on a case-by-case basis. Several common themes emerged.

Importantly, many offenders emphasized their need for social support and believed their risk increased with isolation from supportive family and friends. For example, they commented, "I believe you have a better chance of recovery by living with supportive family members" and "What helps me is having support people around. . . . Isolating me is not helpful." Another respondent expressed distress that geographical restrictions kept him from living with and caring for his infirm mother. One reported concern at having to live alone because of the location of his family's home, and several young adults said they were unable to live with parents and younger siblings after committing what they referred to as a "statutory" offense. Some respondents indicated that they had to relocate several times, and one said he was forced to move to a "ghetto."

On the other hand, several participants reported that they had successfully petitioned the court for an exception to the rule and were then allowed to reside within 1,000 ft of a school. Such requests to the court were reportedly initiated for various reasons, the most common being home ownership or a desire to reside with family. What was most remarkable about these exceptions is that they were seemingly granted in the absence of an assessment of risk or relevant offender characteristics. They seemed to be based solely on the offender's request that the court eliminate a hardship created by the statute.

The majority of respondents emphatically proclaimed that the 1,000-ft rule would have no effect on their risk of reoffense. Many pointed out the need for internal motivation to prevent reoffense and said that if a sex abuser wanted to reoffend, the rule would not stop him. Their comments included "has no effect at all on offending," "does not make an impact on my life," "I follow the rule, but it has had little impact," "It's a childish rule," "You can walk as far as you want if that [child abuse] is what you're after," "Living 1,000 ft away compared to 900 ft doesn't prevent anything," and "It doesn't matter where a sex offender lives if he sets his mind on reoffending. . . . He can just get closer by walking or driving. The 1,000-rule is just a longer leash, I don't see the point."

Many opined that if an offender is not committed to treatment and recovery, "the 1,000-ft rule is inconsequential. If a person wants to offend, it doesn't matter how close he is to a convenient place to find kids." Another pointed out that "if a person wants to reoffend, he will, regardless of what laws are made up or what treatment they go through. . . . It's entirely up to him." Referring to his victim empathy training received in therapy, one offender suggested that some exposure to children might be a good thing: "When I see kids in the park, I can see them as real people with real lives and real feelings, not just an object."

Other respondents were somewhat more analytical and thoughtful about the issue. One questioned if there is a "link between sex offending and distance from schools," and another suggested that "resources would be better used by identifying dangerous individuals who [*sic*] the rule should apply to."

Noteworthy is that many respondents pointed out that they have always been careful not to reoffend in close proximity to their homes, so geographical restrictions provided little deterrence. The rule "serves no purpose but to give some people the illusion of safety," said one respondent. Others expressed similar sentiments: "I think that if someone wanted to reoffend, then they would do it at a place away from home instead of putting themselves at more risk of getting caught [near home]." Another reported, "It is better for me not to have sexual contact with neighborhood kids—less chance of being recognized," and others agreed, "Most people would worry more about being caught in their own neighborhood." One offender wryly noted, "I never noticed how many schools and parks there were until I had to stay away from them."

Some participants pointed out the myth of *stranger danger*: "It doesn't matter where you live; most offenses happen with someone you know or live with." Another commented, "Most abuse happens in homes or with family or close friends, not at bus stops or schools." Although acknowledging that they would be unlikely to abduct a child from a school or park, they did point out a chilling and ironic reality: "You can live next door to a minor but not a school," said one offender, and another agreed, "You don't want me to live near a school where the kids are when I'm at work. The way it is now, when I get home from work, they're home, too—right next door." One offender asked, "What is the point if the houses on your same block are full of kids?" Another offender noted a similar and equally illogical experience:

I couldn't live in an adult mobile home park because a church was 880 ft away and had a children's class that met once a week. I was forced to move to a motel where right next door to my room was a family with three children—but it qualified under the rule.

DISCUSSION

Most of the molesters who responded to this survey indicated that housing restrictions increased isolation, created financial and emotional hardship, and led to decreased stability. The data further suggested that offenders do not perceive residence restrictions as helpful in risk management. Although this study did not measure risk or recidivism, the findings appear to confirm prior speculation that proximity rules might increase the types of stressors that can trigger reoffense (Minnesota Department of Corrections, 2003). Research regarding dynamic risk has indicated that a lack of positive social support and depressed mood, anger, and hostility are all associated with recidivism (Hanson & Harris, 1998, 2001). Restricting lower risk offenders unnecessarily, in ways that potentially interfere with their recovery, may be counter-productive. In Colorado, it was found that sex offenders who had more social support had a lower number of probation violations (Colorado Department of Public Safety, 2004).

On the other hand, sexual interest in children and access to victims are factors also associated with recidivism (Hanson & Harris, 1998, 2001; Hanson & Morton-Bourgon, 2004), so it makes sense that risk might be managed by reducing some molesters' exposure to children and prohibiting them from living near places where children congregate. However, blanket restrictions may fail to address individualized risk factors that are related to potential offending patterns. For example, proximity laws are usually designated only for sex offenders convicted of child molestation, even though research suggests that up to 50% of rapists have committed undetected sex crimes against child victims (Ahlmeyer, Heil,

McKee, & English, 2000). It is well established that most sex offenders have many more victims (and a variety of victims) than those for which they have been arrested (Abel et al., 1987; Abel, Becker, Cunningham-Rathner, Mittleman, & Rouleou, 1988; Ahlmeyer et al., 2000; Heil, Ahlmeyer, & Simons, 2003), and therefore, some may pose risks not readily apparent by relying solely on their documented offense history.

What we can learn from these sex offenders' responses is that they will circumvent restrictions if they are determined to reoffend. Therefore, restrictions must be sensible and feasible and should be based on a thorough assessment of past offense patterns and current risk factors. Practitioners and probation officers should collaborate in determining treatment plans and supervision restrictions that are most applicable to individual offenders' needs and risks. Noteworthy is that several respondents in our study had successfully petitioned the court for a modification of residence restrictions, seemingly without an assessment of risk by the treatment provider or probation officer. Restrictions are likely to be most effective when combined with appropriate assessment, support, monitoring, and rehabilitation. A more individualized approach to sex offender management can enhance public safety while promoting successful reintegration for offenders.

This study was preliminary and exploratory, and it was limited by the inherent problems of self-reported data. The data were collected from two large, metropolitan areas in Florida and therefore probably reflect urban implementation statewide but may fail to capture other problems or benefits more specific to rural communities. It is unknown whether these results can be generalized to other states, and continued research will assist us to more fully understand the national impact of residence restrictions on sex offender reintegration. Ultimately, empirical investigation must clarify the effect of proximity restrictions on recidivism to determine whether such policies are successful in achieving their stated goals.

Prevention of sexual violence requires a well-planned, comprehensive, interdisciplinary response that begins with developing clear goals and objectives, implementing strategies based on empirical research, and collecting and analyzing data on an ongoing basis (Center for Sex Offender Management, 2002). Some states (Minnesota and Colorado) have elected to study the relationship between housing and recidivism before implementing proximity restrictions. These states ultimately determined that the potential benefits of such legislation do not seem to outweigh the possible negative consequences. Social policy should be solidly grounded in empirical evidence and informed by theoretical literature. It is clear that public concern about sexual crimes sometimes leads to legislation that is not driven by data or science but rather by outrage and fear. Scientists and practitioners have a responsibility to assist lawmakers to respond to the problem of sexual violence by advocating for the development of evidence-based policies that protect women and children and rehabilitate perpetrators as well.

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Understanding Treatment for Adults and Juveniles Who Have Committed Sex Offenses

November 2006

Introduction

Specialized treatment has been a mainstay of sex offender management approaches for several decades. In recent years, however, the heightened attention to sex crimes and its impact on victims and communities has resulted in a push for more punitive responses to the individuals who commit these crimes, including lengthier periods of confinement, tighter residency restrictions, expanded registration and community notification laws, and enhanced surveillance and monitoring strategies. The widespread focus on these types of "get tough" strategies consequently has begun to overshadow the important role of treatment in sex offender management efforts.

As has already been demonstrated by leading researchers in the general correctional field, however, an exclusive reliance on punishment-oriented and surveillance-driven approaches has limited impact on enhancing community safety (see, e.g., Andrews & Bonta, 2003; Aos, Miller, & Drake, 2006; Cullen & Gendreau, 2000). When offender management strategies include a rehabilitative focus, the outcomes are much more promising (Aos et al., 2006; Cullen & Gendreau, 2000).

Therefore, as stakeholders across the country are challenged to identify effective strategies for managing individuals who commit sex offenses and thereby ensure the safety of communities, the need to understand the role of treatment will undoubtedly arise. Yet when the topic is broached, it often raises more questions than answers. Most notable are questions about what treatment "is" for adults and juveniles who commit sex offenses, how it differs from other forms of treatment for different

populations, and, of course, whether it has a significant impact on recidivism.

The purpose of this brief is to provide a broad overview of current research, professional literature, and practice trends relative to treatment for sexually abusive individuals, in an attempt to better illuminate this rather complex topic for those who have a stake in sex offender management. Although specialized clinicians may find this brief to be of interest, the primary intended audience is the range of other management professionals seeking to understand key issues about treatment for adults and juveniles who have committed sex offenses.

Unique Features of Treatment for Sex Offenders

It may come as no surprise that providing treatment to individuals who commit sex offenses is a distinctive undertaking. What may be less recognized are the ways in which sex offender treatment is similar to other types of treatment. Regardless of whether treatment is designed to address sex offending behaviors or other types of psychosocial, mental health, or psychiatric needs, a number of shared principles and practices across treatment settings exist, including the following:

- All clients should understand the interventions and procedures that will be utilized and any associated risks and benefits (i.e., informed consent should be provided);
- Treatment interventions should be driven by formal assessments and appropriately individualized to the needs of the client;

Established in June 1997, CSOM's goal is to enhance public safety by preventing further victimization through improving the management of adult and juvenile sex offenders who are in the community. A collaborative effort of the Office of Justice Programs, the National Institute of Corrections, the State Justice Institute, and the American Probation and Parole Association, CSOM is administered by the Center for Effective Public Policy.

- Rapport must be established and maintained;
- Treatment goals should be specific and measurable; and
- Progress—or lack thereof—must be accurately and thoroughly documented.

Despite these and other commonalities across therapeutic contexts, some aspects of treatment for adults and juveniles who commit sex offenses are qualitatively different than approaches to intervention for other populations.

How Treatment is Defined

In other settings, the term “treatment” is used to describe the provision of scientifically proven procedures to effect a cure, but within the sex offender management field, such a definition would be somewhat misleading. For the purposes of this brief, treatment is defined as the delivery of prescribed interventions as a means of managing crime-producing factors and promoting positive and meaningful goal attainment for participants, all in the interest of enhancing public safety.

Providing Specialized Treatment Requires Specialized Training and Experience

In a field where the stakes are high, the dynamics are complex, the interventions are specialized, and the literature is evolving, it is essential that treatment providers are equipped with the necessary skills and knowledge to provide ethically sound and quality treatment. Specialized education, training, experience, and supervision cannot be overemphasized. In some states (e.g., Colorado, Illinois, Texas, and Utah), those wishing to provide treatment for adults or juveniles who have committed sex offenses must meet established criteria or undergo a formal certification process. Many of the criteria used for these purposes are based on published practice standards from the Association for the Treatment of Sexual Abusers (ATSA), a leading authority on the types of educational and practical experiences that are considered essential before engaging in this work.

Involuntary Nature of Treatment

Perhaps the most apparent difference is the often involuntary nature of sex offender treatment. Individuals who have committed sex offenses tend to enter specialized treatment as a result of external pressures or legal mandates, rather than being driven solely by internal motivation. In contrast, persons who experience depressive or anxiety-related symptoms, are challenged by problematic family dynamics, struggle with peer relations, or have problems with self-concept – to name a few – tend to come forward voluntarily for assistance from

a treatment professional and are often motivated by their own needs for assistance to change.

Treatment Goals are not Solely Driven by the Client’s Desires

Because many participants in sex offender treatment programs may not be internally motivated or seeking treatment of their own volition, and because of the nature of the behaviors to be addressed, the manner by which treatment goals are determined often differs from other contexts. Specifically, in most traditional treatment settings, goals of therapy are identified largely by the client’s desires, in collaboration with the provider.

Many of the broad goals of sex offender treatment, however, are largely pre-determined. Although individuals who commit sex offenses are a fairly heterogeneous population, they also have in common several types of needs and risk factors. As such, treatment programs tend to include a number of relatively “standard” goals for participants, such as addressing denial, identifying and managing risk factors, enhancing empathy for victims, and developing prosocial skills. This is not intended to suggest that adults and juveniles who have committed sex offenses should not have a say in their treatment goals. Indeed, to promote an individualized treatment approach that meets the needs of each client, and one in which they are more personally invested in the change process, participants should certainly have involvement and influence in the identification of treatment goals for themselves.

Confidentiality Limits

The forensic context of sex offender treatment – in other words, because the criminal and juvenile justice systems are usually involved – also creates a different dynamic with respect to confidentiality issues. With the primary exception of threats of self-harm or harm to identifiable others, information discussed in most treatment settings is held in strict confidence. However, for individuals who commit sex offenses, the routine involvement of the courts and multiple agencies (e.g., corrections, probation or parole, social services, juvenile justice, child welfare, victim advocacy, and law enforcement) often necessitates collaboration and critical information sharing in order to support accountability, enhance management strategies, and ultimately promote public safety. Therefore, those who enter sex offender treatment programs are often expected to waive some or all of the typical confidentiality protections that exist for most other clients who are involved in mental health or medical treatments (see, e.g., ATSA, 2005;

National Adolescent Perpetration Network [NAPN], 1993).

Impact of Unsuccessful Interventions

In most psychosocial treatment contexts, the negative impact of unsuccessful interventions is relatively limited in scope – either to the individual alone or to a small number of involved others.

With treatment for individuals who commit sex offenses, however, the potential impact of failed interventions is more far reaching. Beyond the potential adverse effects on the client and his family, when adults or juveniles are unsuccessful in treatment, public safety may be compromised. In some circumstances, the net result is additional sexual victimization and the associated impact on the victim, victim's family, and the community.

Increased Potential for Vicarious Trauma and Burnout for Treatment Providers

Similar to the experiences of therapists who work with victims of trauma, but considerably different from most other mental health professionals, individuals who provide treatment to sex offenders are exposed routinely to very detailed descriptions of abusive sexual behaviors, the attitudes and statements that support or minimize these behaviors, and the readily apparent harm to victims. Over time, this cumulative exposure – combined with other influences, such as professional isolation, a high volume of cases, intense public scrutiny, and limited healthy coping responses – can lead treatment providers to experience what has been termed vicarious or secondary trauma, as well as professional burnout (Pullen, 1999; Thorpe, Righthand, & Kubik, 2001; Way, VanDeusen, Martin, Applegate, & Jandle, 2004). This phenomenon is among the most salient differences that make sex offender treatment distinctively challenging.

Sex Offender Treatment Can Take a Toll on Therapists

In a recent study on vicarious trauma, individuals who provide treatment to sex offenders were compared to those who treat victims of sexual abuse (Way et al., 2004.) Both groups of clinicians reported similar levels of vicarious trauma, suggesting that the nature of the work may be associated with clinical levels of distressing symptoms. The researchers also found that the use of negative personal coping strategies exacerbated the impact of vicarious trauma. It is of interest to note that, compared to those providing treatment to victims, sex offender treatment providers were less likely to use positive personal coping strategies.

What Treatment “Looks Like”

It is worth noting that the way in which treatment for sexually abusive individuals has been historically conceptualized and implemented has not always been consistent (see, e.g., Becker & Murphy, 1998; Laws & Marshall, 2003; Marshall & Laws, 2003 for reviews of its evolution). However, over the past two decades, treatment has become more standardized, both in terms of the underlying theories that drive the interventions and the specific programmatic elements.

Primary Frameworks

At present, most programs for adult and juvenile male sex offenders¹ report using cognitive-behavioral and relapse prevention models as the foundation of treatment (McGrath, Cumming, & Burchard, 2003). Cognitive-behavioral treatment has a long history in the mental health field and has been found to be an effective framework to address a range of psychological disorders. Relapse prevention was originally designed for addictive disorders, such as substance abuse and gambling. Although sexual offending is not considered to be an addiction, the use of relapse prevention as a long-term behavior management strategy – rather than a cure – has made it appealing to those in the sex offender management field (e.g., Laws, 1989; Laws, Hudson, & Ward, 2000).

Broad Goals and Objectives

In the broadest sense, the primary goals of sex offender treatment are for individuals to take responsibility for their behaviors, develop the necessary skills and techniques that will prevent them from engaging in sexually abusive and other harmful behaviors in the future, and lead productive and prosocial lives. An associated objective through the cognitive-behavioral lens centers around understanding the inter-relationship between thoughts, feelings, and behaviors, their impact on one's conduct, and then developing more healthy thinking patterns and appropriate ways of managing emotions. And within the relapse prevention framework, a closely related objective is to identify the risk factors or triggers that are associated with an individual's sexually abusive

¹ Although it is recognized that adult women and adolescent girls engage in sexually abusive behaviors, statistics indicate that the overwhelming majority of sex offenses are committed by males (Federal Bureau of Investigation, 2005, Snyder & Sickmund, 2006). Therefore, for the purposes of this brief, discussions of relevant research and treatment reflect the literature on adult men and adolescent boys.

behaviors and subsequently develop healthy coping skills to address those risk factors.

Common Treatment Targets

To address these broad goals and objectives, treatment is often comprised of various offense-specific and offense-related treatment targets, primarily derived from various theories about both the onset and continuation of sex offending behaviors.² By and large, these factors have been supported by research, either as needs that are prevalent within samples of sex offenders or as factors that are associated with sexual recidivism.

With sexually abusive adults, for example, researchers have identified a number of relatively enduring but changeable risk factors that are associated with recidivism, including – but not limited to – the following (see, e.g., Hanson & Bussiere, 1998; Hanson & Harris, 2000; Hanson & Morton-Bourgon, 2004):

- Deviant sexual arousal, interests, or preferences;
- Sexual preoccupation;
- Pervasive anger or hostility;
- Emotional management difficulties;
- Self-regulation difficulties, or impulsivity;
- An antisocial orientation;
- Pro-offending attitudes, or cognitive distortions; and
- Intimacy deficits and conflicts in intimate relationships.

Similarly, for juveniles, dynamic factors that are believed be associated with sexual recidivism include, among others, the following factors (see Hunter, Figueredo, Malamuth & Becker, 2003; Longo & Prescott, 2006; Worling & Langstrom, 2006):

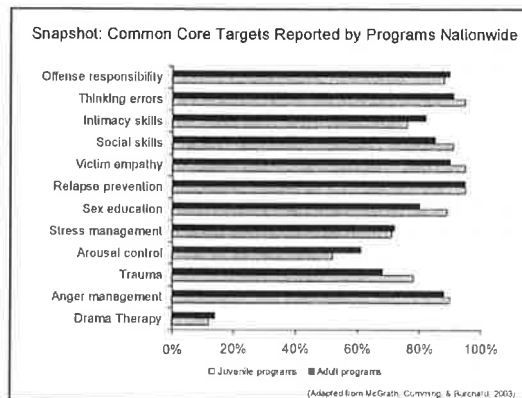
- Deviant sexual interests;
- Problematic parent-child relationships;
- Social isolation, poor social skills, and low social self-esteem;

² Most contemporary theories involve a complex interplay of developmental, biological, environmental, psychological, sociocultural, and inter- and intrapersonal influences (see, e.g., Barbaree & Marshall, 2006; Ward, Polaschek, & Beech, 2006).

- Antisocial values and behaviors, including emotional callousness and an absence of empathy for others;
- Pro-offending attitudes or cognitive distortions;
- Impulsivity; and
- Treatment non-completion.

Again, because of the research support for these elements, they are considered to be among the most common targets of treatment in many programs for adults and juveniles, respectively.

At the same time, some of these traditional treatment targets – namely denial, self-esteem, and victim empathy – have not been found to predict sexual recidivism for adult sex offenders. The lack of predictive value of these targets may be the result of difficulties with consistently defining and measuring these constructs, or because they are related to the initiation of sex offending but perhaps are not predictive of future reoffending (see, e.g., Hanson & Bussiere, 1998). Despite these unanswered empirical questions, many programs continue to view denial, self-esteem, and empathy as important targets of intervention, likely because of understandable speculation that these factors are related to sex offending behaviors or because of their suspected value in the treatment process.



Treatment Should be Individualized

As noted previously, although several components are common to all individuals entering sex offender treatment, interventions nonetheless should be designed to meet the specific needs of clients. This requires that specialized assessments are conducted to inform treatment for each participant. It is beyond the scope of this brief to detail assessment processes with adults and juveniles

who have committed sex offenses, although a few key points are worthy of review.

For example, it is important to use specialized, research-based tools that explore not only general mental health needs and personality functioning, but also assess offense-specific variables, such as deviant sexual interests and pro-offending attitudes, because of their association with recidivism risk. When focusing specifically on the assessment of risk of sexual recidivism for adults or juveniles, practitioners should use instruments that have been designed for those populations and, whenever possible, measures that have demonstrated predictive validity. Additionally, the use of multiple sources of data can increase the accuracy and completeness of assessments.

Ideally, then, assessments are the means by which levels of risk and needs are identified, such that individualized, meaningful, and more effective treatment plans can be developed. Indeed, researchers who have studied general criminal offenders have long known that treatment outcomes are maximized when assessments of risk and needs are conducted and clients are matched to services accordingly. For example, higher risk offenders tend to benefit from more intensive services than do lower risk offenders, and lower risk offenders are better served by low intensity programming (e.g., Andrews & Bonta, 2003). A recent meta-analysis conducted by Hanson (2006) found that these same principles are associated with maximized treatment outcome among sex offender populations as well. Finally, repeated assessments throughout the course of treatment are a critical way to objectively and consistently evaluate progress in treatment.

A Checklist for Policymakers and Administrators

- Is the program based on an evidence-based model?
- Is treatment individualized and assessment-driven?
- Are treatment targets supported by research?
- Are providers specially trained?
- Are approaches tailored for special populations?
- Are community-based and institutional programs parallel and linked?
- Are within-treatment changes and long-term outcomes measured?

Modernizing Treatment

In the preceding sections, sex offender treatment for adults and juveniles was outlined in a manner that reflects the traditional model that has been in place for many years. More recently, experts have begun to modify and build upon this model because of concerns that it resembles a “one size fits all” approach to treatment and one which presumes that the same interventions are equally important and effective for every offender (e.g., Hunter, 2006; Laws & Ward, 2006).

Additionally, the ever-growing body of contemporary literature – which includes additional theories of sex offending that take into account the diversity of these populations, greater appreciation of the differences between adults and juveniles who have committed sex offenses, and attention to variables that enhance treatment engagement and response – has provided a catalyst for further refining and updating treatment approaches (see Barbaree & Marshall, 2006; Longo & Prescott, 2006; Marshall, Fernandez, Marshall, & Serran, 2006; Ward, Polaschek, & Beech, 2006). Taken together, these elements are beginning to change the face of traditional programs, revealing a more modernized approach to treatment for adults and juveniles.

Different Pathways to Offending Means Treatment Should Vary

Although it has been long recognized that individuals who commit sex offenses are not all alike, until recently the field has lacked comprehensive theoretical and research-based models that addressed their different vulnerability factors, motivations, and contextual circumstances and that could guide treatment accordingly.

Promising models for adults

In response to this limitation in the treatment field to date, Ward and his colleagues (see Ward & Hudson, 1998, 2000; Ward, Hudson, & Keenan, 1998; Ward & Siegert, 2002; Ward et al., 2006) proposed the Self-Regulation and Pathways models as a means of outlining the varied pathways that can lead to sex offending. The Pathways model takes into account various biological, cultural, environmental, and other underlying factors that are believed to result in sexually abusive behavior toward children. Specifically, the extent to which individuals have difficulties in one or more of the following core and interacting clusters of symptoms reflects their pathway to offending, including (see, e.g., Ward & Siegert, 2002; Ward et al., 2006):

- Emotional management difficulties, or emotional dysregulation;
- Interpersonal problems, including intimacy deficits, loneliness, and social isolation;
- Attitudes and beliefs that support antisocial or sexually abusive behaviors, commonly referred to as cognitive distortions; and
- Deviant sexual fantasies, arousal, and internal interpretations about how to approach sexual encounters.

Also recognizing that individuals commit sex offenses for different reasons and possess different coping skills and deficits, a key focus of the Self-Regulation model is to classify individuals based on specific motivations and goals, self-management strategies, cognitive and behavioral elements, and contextual factors that lead to offending (Ward & Hudson, 1998, 2000; Ward et al., 1998, 2006). Four distinct categories of offense pathways are proposed:

- *Avoidant-Passive.* The intent of these individuals is to avoid sex offending, but an overall lack of effective coping strategies and self-management skills results in a failure to take definitive steps to manage their behaviors;
- *Avoidant-Active.* For offenders in this category, the desire to refrain from sexually abusive behavior is hampered by a use of ineffective strategies, and those which actually increase their likelihood of offending;
- *Approach-Automatic.* Although these individuals desire deviant sexual activity, their offenses are more driven by situational factors and circumstances rather than active planning and are often the result of poor self-management skills and impulsivity; and
- *Approach-Explicit.* Persons in this category are motivated to offend and engage in explicit planning, including specific steps to groom victims and avoid detection, which highlights an ability to regulate their behaviors for self-serving purposes.

A promising model for youth

Similarly, with juveniles who have committed sex offenses, emerging typology research by Hunter and his colleagues suggests that a range of personality characteristics, developmental

experiences, and risk factors may be associated with different pathways to sexually abusive behavior among youth, with preliminary research suggesting the following three subtypes and trajectories (see, e.g., Hunter, 2006):

- *Lifestyle delinquent youth.* These youth exhibit conduct problems early in life and continue to engage in delinquent and criminal behaviors throughout adolescence and perhaps adulthood, including sexually aggressive behavior toward peer and adult females;
- *Adolescent onset, non-paraphilic youth.* The sex offending behaviors of these individuals tend to be directed toward pre-pubescent females and appear to be either experimental in nature or as compensation for deficits in social skills and self confidence; and
- *Early adolescent onset, paraphilic juveniles.* This group is believed to have emerging deviant sexual interests and arousal and may subsequently target both pre-pubescent males and females.

By providing more comprehensive explanations of the multiple characteristics and varied means by which adults and juveniles commit sex offenses, these models offer a classification system that can assist treatment providers with the development of more refined and appropriately tailored interventions (Hunter, 2006; Ward & Seigert, 2002, Ward et al., 2006).

Sex Offenders Aren't Just "Sex Offenders"

When individuals are labeled as "sex offenders," there is a tendency for professionals and others to define them solely in terms of their sexually abusive behaviors. Within the context of sex offense-specific treatment, this narrow view can result in incomplete intervention strategies as providers may be tempted to focus exclusively on the sexually deviant nature of their actions.

Holistic programming is vital

However, adults and juveniles who have committed sex offenses may also have a range of intervention needs in the psychiatric, healthcare, family, peer, substance abuse, vocational, or educational domains, and if these additional issues are left unaddressed, their ability to lead a stable and productive life may be understandably hampered. Contemporary programs address this limitation by designing treatment in a more holistic manner, thus

offering a more complete approach to intervention that better maximizes the potential for longstanding positive impact.

Shifting toward a more positive approach

A related limitation of a more traditional approach to programming involves its primary focus on deficits, whereby treatment centers around the negative attributes of individuals and the use of escape and avoidance strategies as a means of preventing further sexual behavior problems. As one can imagine, a treatment program that outlines only what is problematic about an individual and offers restrictions and prohibitions as the road to wellness may not lead to engagement and investment in the change process (see, e.g., Mann, Webster, Schofield, & Marshall, 2004; Thakker, Ward, & Tidmarsh, 2006; Ward & Stewart, 2003). This, too, exemplifies a failure to consider individuals holistically and may neglect important clinical needs, thus limiting the impact of interventions.

Consequently, experts have recently begun to argue that an emphasis of modern rehabilitative efforts should be to equip participants with the necessary skills, competencies, values, and beliefs that will ultimately allow them to lead "good lives" (Thakker et al., 2006; Ward & Stewart, 2003). Put simply, leading a "good life" – in which needs are met in positive and self-fulfilling ways but not at the expense of others – is incompatible with sex offending, and therefore is an important treatment goal. Through this approach, adults and juveniles develop positive goals, including intimacy, health, knowledge, autonomy, and emotional balance. At the same time, they learn how to counteract obstacles, whether internal or external, that may prevent them from attaining these goals.

Because this "good lives" model of rehabilitation is strengths-based and designed to facilitate overall wellness and meaningful change for individuals, it has the potential to enhance engagement and internal motivation in treatment (Mann et al., 2004; Thakker et al., 2006; Ward & Stewart, 2003). This important shift from an exclusive risk management approach, therefore, represents a key advancement in the sex offender treatment field – and one that can enhance the likelihood of success of participants, thus translating into community safety.

Treatment for Juveniles Should Not Mirror Treatment for Adults

Early in the history of the juvenile sex offender field, experts acknowledged that treatment for these youth should take into account developmental considerations (Barbaree, Marshall, & Hudson,

1993; Ryan & Lane, 1991). As the field evolved, however, significant concerns arose because interventions for these juveniles were nonetheless based primarily on the approaches used for adults (Chaffin & Bonner, 1998; Weinrott, 1996). Even today, the specific differences between adults and juveniles who have committed sex offenses are not always appreciated fully within the context of treatment³, and current reviews note that the design and delivery of programming for youth still resembles adult treatment in many ways (Bumby & Talbot, in press; Letourneau & Miner, 2005; Longo & Prescott, 2006).

Fortunately, practitioners do have guidance from the professional literature about the ways in which treatment can be modernized to meet the developmental needs of these youth, both in terms of the models that drive treatment and the modalities through which interventions are delivered (e.g., Fanniff & Becker, 2006; Hunter, Gilbertson, Vedros, & Morton, 2004; Longo & Prescott, 2006).

Contemporary treatment models for juveniles

Recognizing the inherent value of the tenets and approaches used as part of cognitive-behavioral and relapse prevention interventions, some have proposed that the manner in which these programs are implemented can be modified to ensure that it is more appropriate and relevant for youth (e.g., Murphy & Page, 2000; Hunter & Longo, 2004; Worling & Curwen, 2000). For example, the language, style, and approach to activities and treatment tasks within the relapse prevention framework can be tailored for youthful participants overall, as well as individualized to the variations within the juvenile sex offender population (Hunter & Longo, 2004; Murphy & Page, 2000.) In addition, experts suggest reframing the "incurability" emphasis within relapse prevention with juveniles, because of the potential negative impact it may have on self-esteem, motivation, and confidence to make positive life changes in treatment (Hunter & Longo, 2004).

The use of different underlying frameworks altogether has also been suggested as a means of intervening with sexually abusive juveniles, with a

³ Included among the primary suggested differences between adults and juveniles who commit sex offenses are deviant sexual arousal or preferences (which may be less common), family, peer, and environmental factors (which may be more critical for juveniles), and the potential role of maltreatment (which may be more influential for juveniles). In addition, the period of adolescence is characterized by cognitive, emotional, social, moral, and biological processes that are qualitatively different from those in adulthood (see, e.g., ATSA, 2000; Chaffin, Letourneau, & Silovsky, 2002; Fanniff & Becker, 2006; Letourneau & Miner, 2005).

primary recommendation for the use of community-based social-ecological models that address the multiple interactive factors that are associated with problem behaviors (Hunter et al., 2004; Hunter, 2006; Letourneau & Miner, 2005; Saldana et al., 2006). One very promising example is Multisystemic Therapy (MST), a community- and family-based treatment approach that is designed to address individual, family, peer, school, and community influences (Henggeler et al., 1998). Some of the common goals for MST include:

- Improving family functioning;
- Enhancing parenting skills;
- Increasing the youth's associations with prosocial peers;
- Improving school performance; and
- Building upon community supports.

Research indicates that these and other positive goals are often attained in a cost-effective manner; with significant reductions in recidivism (Henggeler et al., 1998). Although the application of MST to the treatment of juvenile sex offenders is relatively new, it has particular appeal because of the very promising outcomes that have been revealed (see, e.g., Borduin & Schaeffer, 2002).

An emphasis on multiple modalities

Although group therapy has been the favored, if not exclusive, mode of treatment with sex offenders, its use with juveniles has been challenged recently by experts in the field (Chaffin, 2006; Hunter, 2006; Hunter et al., 2004), particularly in light of the research which demonstrates the potential for negative outcomes when delinquent peers are aggregated for the purposes of intervention (e.g., Chamberlain & Reid, 1998; Dishion, McCord, & Poulin, 1999).

Although group treatment with juvenile sex offenders has its advantages – such as resource and time efficiency, opportunities to practice positive skills with peers, and sharing common experiences – it can be very limiting if used as the sole mode of treatment with youth⁴ (see, e.g., Rich, 2003; Worling, 2004). For example, the relatively small amount of time spent in group treatment may be insufficient for addressing the range of needs of any given youth. Additionally, youth who are less mature, suffer from mental health difficulties, or who

have lower levels of cognitive functioning may be less able to understand and apply the concepts being addressed in the group setting. Furthermore, the group context is not conducive to raising particularly sensitive issues, nor does it provide the opportunity to address critical family issues and other environmental influences.

Individual therapy can be an appropriate solution to address some of these and other issues, and it also provides a forum in which the concepts and skills covered in group can be reinforced and individually tailored to each youth's circumstances. Family therapy, too, is an essential modality, particularly when used as part of a more integrated approach to intervention with juveniles who have committed sex offenses (e.g., Rich, 2003; Thomas, 2004; Worling, 2004). Perhaps for these and other reasons, most juvenile sex offender treatment programs nationwide report using multiple modes of treatment, including individual, family, and group treatment as part of their programming (McGrath et al., 2003).

How Treatment is Delivered is as Important as What is Delivered

The underlying frameworks and substantive content are certainly among the critical factors to consider for ensuring quality sex offender treatment programs. Indeed, much of the professional treatment literature to date has focused on treatment models and content of programs for adults and juveniles who have committed sex offenses. Notwithstanding these elements, experts in the field are now drawing attention to the importance of process-related variables in treatment, recognizing the influence of treatment providers' characteristics and engagement strategies (e.g., Fernandez, 2006; Marshall, Ward, Mann, Moulden, Fernandez, Serran, & Marshall, 2005).

Therapist characteristics

To illustrate, for many years, providers in sex offender programs seemed to favor somewhat aggressive, confrontational, and punitive approaches to treatment, a style which was later questioned because of concerns that it may actually lead to undesirable outcomes such as increased resistance and hostility, less engagement, and fewer within-treatment changes (Bumby, Marshall, & Langton, 1999; Kear-Colwell & Pollack, 1997; Marshall, 1996).

Researchers have since supported these concerns, finding poorer outcomes when sex offender treatment providers were cold and confrontational,

⁴ Many of the limitations regarding an exclusive reliance on group treatment for juveniles may also be applicable when considering treatment modalities for adults.

and when they failed to create a cohesive and therapeutic climate for participants (see, e.g., Beech & Hamilton-Giachritsis, 2005; Marshall, 2005). Conversely, treatment progress – such as reductions in denial, minimization, and victim blaming – is enhanced when sex offender therapists are empathic, warm, rewarding, encouraging, firm but flexible, and relatively directive (Beech & Hamilton-Giachritsis, 2005; Marshall, 2005).

Engagement strategies

Practitioners are also becoming more familiar with specific techniques and strategies that have been found to be helpful for engaging clients, both adult and juvenile. Perhaps one of the most common is Motivational Interviewing (Miller & Rollnick, 2002). Generally speaking, this approach suggests that the way in which professionals interact with a client should vary depending upon the client's level of motivation and readiness for change, which may ultimately reduce client resistance and promote engagement in the assessment and intervention process. Motivational Interviewing has become an increasingly popular strategy for working with sex offenders (Ginsburg, Mann, Rotgers, & Weekes, 2002).

Similarly, and specifically for professionals working with juvenile sex offenders, the Invitations to Responsibility model has been suggested as a means of promoting internal motivation to invest in the treatment process, rather than using confrontation as an attempt to externally motivate youth (Jenkins, 1998). The accompanying techniques and strategies are based on the importance of personal choice and identifying one's own reasons to change, and emphasize the need to develop partnerships – rather than coercive relationships – with clients (Jenkins, 1998, 2006).

Overall, the emphasis on process-related variables, positive treatment goals, and strategies that can enhance internal motivation is reflective of a more positive psychological approach to sex offender treatment (e.g., Fernandez, 2006; Thakker et al., 2003; Ward & Stewart, 2003). This shift – which promotes engagement, investment, and success in the treatment process – is critical because of the research demonstrating that adults and juveniles who complete treatment are less likely to recidivate than treatment non-completers (Hanson, Gordon, Harris, Marques, Murphy, Quinsey, & Seto, 2002; Hunter & Figueredo, 1999; Marques, Wiederanders, Day, Nelson, & van Ommeren, 2005; Worling & Langtstrom, 2006).

"Early studies of sexual offender treatment focused primarily on techniques and virtually ignored the influence of the therapist...it may now be time to turn our attention to those who provide the treatment in an effort to further refine and improve our ability to provide effective treatment" p. 195, emphasis added.

(Fernandez, 2006)

Does Treatment Work?

For professionals in the sex offender management field, it is virtually impossible to avoid the inevitable question about whether sex offenders can be treated or rehabilitated. A definitive response – either in the negative or affirmative – would imply that a simple answer exists, when in reality, the answer is not a clear-cut one. Yet as is often the case in the social and behavioral sciences, there tends to be evidence on either side of the issue of interest. The same holds true with research on sex offender treatment, whereby both skeptics and advocates can produce some level of empirical evidence to support their respective positions.

The Skeptical Perspective

Roughly two decades ago, a review of multiple treatment outcome studies led to the bleak conclusion that treatment for sex offenders does not reduce recidivism significantly (Furby, Weinrott, & Blackshaw, 1989). The authors acknowledged, however, that the designs of many of these treatment outcome studies were significantly flawed, recognized that many of the evaluated programs were somewhat outdated when compared to the then-current approaches to treatment, and left open the possibility that treatment actually may be effective for some types of sex offenders. Nonetheless, their review became very influential in putting forth the notion that treatment does not work for sex offenders. In some areas, this research was used to support the elimination of specialized sex offender treatment programs.

Years later, additional groups of investigators synthesized the findings of multiple studies and reached the same general conclusion, noting that the poor methodology of the range of available studies made it impossible to determine with any certainty whether treatment for sex offenders "worked" (Quinsey, Harris, Rice, & Lalumiere, 1993; United States General Accounting Office, 1996). Even today, some experts contend that no conclusions can be drawn about treatment effectiveness because of the lack of scientific rigor in the available research (Rice & Harris, 2003).

Most recently, critics point to the final analysis of a single long-term study in California with perhaps the best research design to date for exploring the impact of treatment interventions on recidivism rates for sex offenders (Marques et al., 2005). No significant differences in recidivism rates were found between the treated sex offenders and the untreated comparison groups overall, seemingly supporting previous assertions that scientific evidence does not support the effectiveness of treatment. However, it should be noted that the authors acknowledged a variety of limitations to their study and warned consumers against prematurely drawing broad conclusions that treatment for sex offenders is not effective.

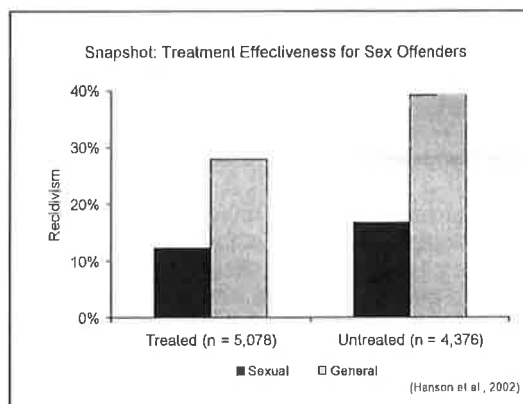
A More Optimistic Perspective

After the initial unfavorable reviews of treatment outcome research were published, several experts responded with a series of investigations that offered evidence to the contrary (see, e.g., Alexander, 1999; Hall, 1995; Marshall & Pithers, 1994). These analyses indicated that a treatment effect does in fact exist for specialized treatment programs for sex offenders, particularly when programs utilize more contemporary approaches to treatment, such as cognitive-behavioral and relapse prevention models.

In the years that followed, there was no shortage of additional scientific inquiries into the issue of treatment effectiveness, with multiple reviews synthesizing and integrating the ever-growing body of research to examine whether an overall treatment effect existed. And these most recent analyses converge around optimistic findings, namely that recidivism rates are lower for those who complete sex offender treatment than for those who do not receive or complete treatment (e.g., Aos et al., 2006; Gallagher, Wilson, Hirschfield, Coggeshall, & MacKenzie, 1999; Hanson et al., 2002; Lösel & Schmucker, 2005).

Among the most commonly cited examinations, because of its relatively strong research methodology, breadth of credible studies included, and attempt to discern treatment effects for more current versus older programs, is the Hanson et al. (2002) meta-analysis. After combining 43 published and unpublished studies that included more than 9,000 sex offenders, the authors found a significant difference between the "treated" and "untreated" groups, with better outcomes for those who received treatment – particularly current approaches to treatment. The researchers noted, nevertheless, that more conclusive evidence was needed because of the variations in the quality of the various studies that were included in the meta-

analysis. In addition, it was reiterated that, given the diversity of the sex offender population, additional research is critical in order to better determine which types of offenders benefit from which types of treatment.



It is worth noting that the California study used by some to argue that treatment is *not* effective actually provides some evidence of the differential impact of treatment on different types of offenders (Marques et al., 2005). Namely, individuals with child victims who met the goals of treatment recidivated at lower rates than those who did not. Similarly, higher risk sex offenders who evidenced more progress in treatment had lower rates of recidivism than high risk sex offenders who made less progress in treatment. These findings are consistent with other research that reveals better outcomes when offenders are matched differentially to services based on identified levels of risk and needs (e.g., Andrews & Bonta, 2003).

Finally, as noted previously, the researchers in the California study cited a number of factors that may have impacted the overall null findings, including a program design that may not be considered state-of-the-art when evaluated against current standards, a less than optimal individualization of treatment based on risk and needs, and the lack of a more developed and collaborative aftercare component (Marques et al., 2005).

Taken together, the best available evidence suggests that these interventions hold promise for adults who have committed sex offenses. Nonetheless, additional high quality research is needed in the field.

Treatment Outcomes for Juveniles

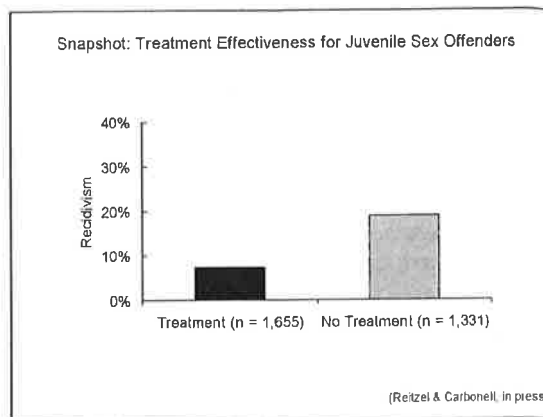
Given that the juvenile sex offender management field is much less developed than the adult field, it is not surprising that there is a paucity of well-

controlled research on treatment effectiveness with these youth. Similar to the mix of skepticism and support of the treatment outcome evidence with adults, the jury remains out within the juvenile field. While some experts question the ability to draw any conclusions about treatment efficacy with these youth because of the wide variability in the quality of research designs, others suggest the data is promising for some types of interventions with some types of youth (Chaffin, 2006; Fanniff & Becker, 2006; Letourneau & Miner, 2005; Marshall & Fernandez, 2004; Reitzel & Carbonell, in press; Walker, McGovern, Poey, & Otis, 2004).

From a cognitive-behavioral perspective, one published study is particularly noteworthy because of its relatively sound research design and follow-up across different types of recidivism (Worling & Curwen, 2000). Compared to untreated juveniles, youth who received cognitive-behavioral treatment with an emphasis on family interventions had significantly lower recidivism rates not only for sexual offenses, but also for non-sexual violent offenses, and non-sexual, non-violent offenses.

As described previously, researchers have also highlighted the promise of Multisystemic Therapy (MST) with sexually abusive youth, most notably because of the exceptional research designs and positive outcomes from treatment efficacy studies (see, e.g., Borduin, Henggeler, Blaske, & Stein, 1990; Borduin & Shaeffer, 2002; Saldana et al., 2006). The first randomized trial, comparing outcomes between juvenile sex offenders who received MST and those who received individual therapy, revealed superior results for the MST group (Borduin et al., 1990). The most currently published study yielded similar findings (Borduin & Schaeffer, 2002). More specifically, in contrast to youth in the comparison group, those who received MST evidenced fewer behavior problems, improved family and peer relationships, better academic performance, and reduced rates of recidivism for both sexual and non-sexual crimes.

Perhaps most compelling are the recent meta-analyses examining the effectiveness of treatment for juvenile sex offenders, both of which have yielded very positive results that favor treatment (Reitzel & Carbonell, in press; Walker et al., 2004). In the most current examination, the researchers considered treatment outcomes across multiple studies that included nearly 3,000 sexually abusive youth, and found that youth who received treatment recidivated at significantly lower rates than those who did not (Reitzel & Carbonell, in press).



Conclusion

A comprehensive approach to managing individuals who have committed sex offenses requires the consideration and integration of a number of key components, including the critical and very promising role of treatment. In recent years, the face of treatment has begun to change in important ways, primarily in response to the ever-growing body of research on those who perpetrate these crimes. The future of treatment may indeed reflect more tailored and ultimately more effective interventions for adults and juveniles, taking into consideration the diversity both within and across these populations. It will also be dependent upon the steadfast attempts of researchers to highlight which types of individuals benefit most from which interventions.

For now, although the current research on treatment effectiveness remains somewhat equivocal, the available evidence suggests that these interventions hold promise for reducing recidivism both among adults and juveniles who have committed sex offenses. Moreover, there is no compelling reason to conclude that specialized treatment and other rehabilitative interventions should be abandoned in favor of a sole reliance on more punitive approaches that have already been demonstrated as having very limited impact on enhancing community safety.

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ida's Board of Govern-
 -suring stick for rating
 -mance of the state's
 -versities is now set in

ick Scott signed a
 -ching education bill
 -that included the cri-
 -to determine if the 12

areas of student and graduate
 -performance to get multimil-
 -lion-dollar boosts in funding or
 -poorly enough to lose some of
 -their base funding.

Higher education-focused
 -changes also included cementing
 -in law the similar performance
 -funding criteria the Florida
 -Board of Education put in place

Santa Fe was one of seven state
 -colleges to receive bonus money
 -under that system this year.

In a recent interview, State
 -University System Chancellor
 -Marshall Criser III, a former
 -University of Florida trustee,
 -said Scott's signature would
 -solidify the shift away from a
 -pre-recession "input model"

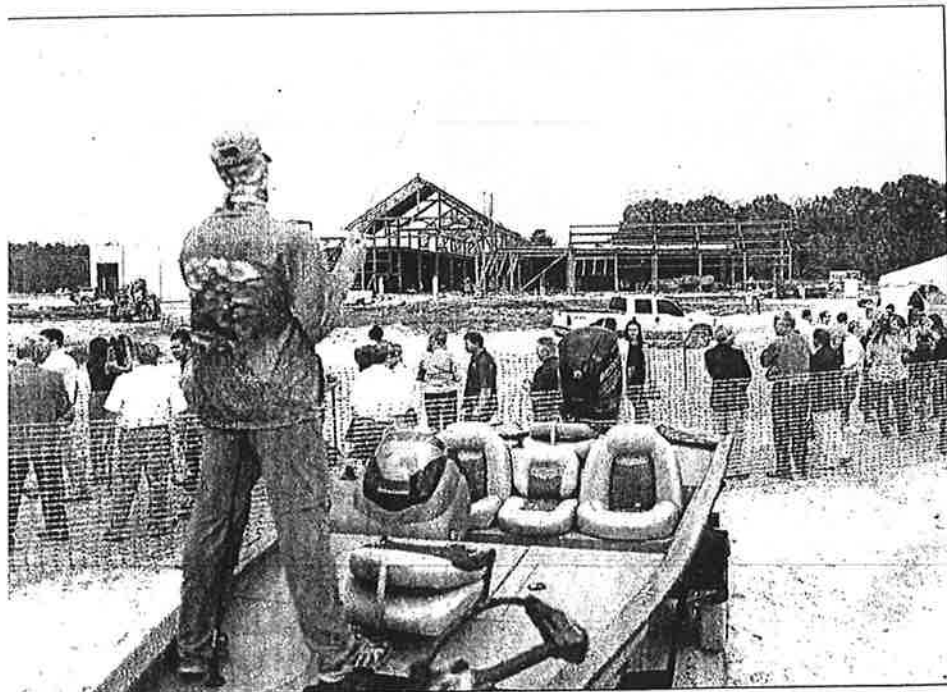
driven" model that looks at the
 -success of students and gradu-
 -ates. The Board of Governors
 -moved to a performance fund-
 -ing model in 2014.

"What we needed to do as
 -public institutions is show we
 -are accountable to our students

SEE FUNDING, A4

BASS PRO

Cause for Celebration



es of a beam signing event Thursday watch ongoing construction of the Bass Pro Shops as part of the
 -tion Pointe development. ROB C. WITZEL/STAFF PHOTOGRAPHER

Officials show off construction progress

ony Clark
 -s editor

h concrete tilt-up
 -steel beams and roof-
 -ing the outline of the
 -782,000-square-foot
 -Pro Shops Sportsman's
 -r under construction in
 -background, more than
 -hundred guests celebrated
 -cent start of vertical

construction in Celebration
 -Pointe in a nearby tent Thurs-
 -day morning.

Bass Pro is the anchor
 -tenant slated for a November
 -opening in the new 125-acre
 -mixed-use development
 -Celebration Pointe under
 -construction on the western
 -edge of Interstate 75 north of
 -Archer

At tl

property, a large concrete
 -block that will be the stairwell
 -of the 60,000-square-foot
 -Info Tech office building is up.

After 10 years of plan-
 -ning, lead developer Svein
 -Dyrkolbotn, the former
 -Gator basketball player from
 -Norway, talked to the Sun
 -about starting construction

EXHIBIT N

NW SIXTH STREET

Center poised to treat sex offenders

By Paige Arnold
 -Correspondent

A treatment center whose cli-
 -ents include "the worst of the
 -worst" sex offenders has been
 -approved to open a new office
 -between two daycare centers
 -on Monday unless the center
 -and Gainesville can agree on an
 -alternative location.

The city has already approved
 -a zoning permit for the Intensive
 -Treatment Modalities Group
 -counseling center to open at
 -1208 NW Sixth St. — between
 -the Persimmon Early Learning
 -Academy, 1121 NW Sixth St, and
 -Granny D's Learning Center,
 -1300 NW Sixth St.

However, city officials say the
 -application that was approved
 -did not specify all of the services
 -that would be offered.

According to the Zoning
 -Compliance Approval Form
 -that the city Planning and Ser-
 -vices Development Department
 -signed off on in October, ITM
 -said the center would be used for
 -"counseling services, including
 -human relations and substance
 -abuse counseling."

Gainesville Planning Man-
 -ager Ralph Hilliard said those
 -services are allowed in the prop-
 -erty's zoning category without
 -additional permits and those
 -uses jibe with surrounding
 -properties.

The application did not men-
 -tion sexual offender counseling,

SEE ZONING, A4

ZONING

From Page A1

he said, and those would not be allowed without an additional special use permit. Hilliard said the group has not applied for a special use permit.

Hilliard met with city attorneys last week who suggested the planning department draft a letter to ITM clarifying that the center will not be allowed to offer counseling to sex offenders at that specific location.

"All we've done with them is clarify what their permit is," Hilliard said. "We don't plan on revoking that permit because there is nothing about that permit that is not allowed.

"At this point, we're just hoping that they will confirm that they understand what they can do at that site, and that's really all they need to do," he said. "We're waiting to see whether or not they're going to challenge that."

On Thursday, Andrew Persons, the Interim Principal Planner for the Planning Department, said the city has been working with ITM on finding another location to offer the sex offender services.

He said the city has approved an application by ITM for a site at 106 SW 10th St. that would be within zoning regulations for sex offender treatment. Persons said ITM is looking at a number of other properties.

ITM is a group of mental health care professionals who have been treating adult and adolescent clients in north central Florida since the early



A sex offender treatment center, shown, was approved for a space between two day care centers, the Persimmon Early Learning Academy and Granny D's Learning Center, on either side of the facility located at 1208 NW Sixth Street. PHOTOS BY ERICA BROUGH/STAFF PHOTOGRAPHER



Granny D's Learning Center.

1980's, according to the group's website. The counseling center, now at 225 SW Seventh Terrace, sees about 60 court-ordered sex offenders on a weekly basis, most of whom are Alachua County residents.

"There's some question of whether or not this specific population should be under this zoning or another zoning. We don't necessarily agree with the city about the zoning," said Alvin Butler, counselor and part owner of the ITM Group.

"They just (said) that we were not able to give

certain types of treatment, but we already have a zoning permit for that area, so it's not like we don't have a permit," he said.

Butler declined to comment on concerns about locating so close to day care centers.

"People already don't like some of our customers based on prejudice and ignorance," he said. "Our job is to figure out who is the worst of the worst, and how to keep our community safe. So, it's counterintuitive to restrict our ability to make to community safer."

The director of Persimmon Early Learning Academy, Bonnie Bowman, expressed concerns about having sex offenders near the children she serves, but said that she "is confident that the city will not approve the permit."

The manager of Granny D's Learning Center declined to comment.

Persons said that if ITM were to offer sex offender services at the 1208 SW Sixth St. location, "the city would take action via code enforcement by issuing a citation as a warning." He added that the only way the city would know if that were happening would be for city officials somehow to catch word of it as they won't be monitoring the services provided.

Meanwhile, ITM continues to prepare the building at 1208 for opening. The majority of the renovations on the two-story building have been completed.

"The building was pretty decrepit," said Butler.



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Alvin Butler: Counseling center is no danger to community

By Alvin Butler

Special to The Sun

Published: Monday, April 25, 2016 at 6:01 a.m.

An April 15 article on the Intensive Treatment Modalities Group counseling center's new office states that its clients include "the worst of the worst sex offenders." This very misleading initial statement suggests that the treatment center will be bringing the worst possible clients to the neighborhood, but this is simply not true.

The intent of that leading statement appears fairly obvious. The reality is that the "worst of the worst" comment was made in reference to the approximately 700 sexual offenders housed indefinitely at the Florida Civil Commitment Center located near Arcadia. The entire context of my comment was not presented in the article.

The primary function of the building at 1208 NW Sixth Street is administrative in nature. Less than 10 percent of our client population at the building would have been sexual offenders. The outpatient counseling center is focused on providing needed general counseling services to the Gainesville community in an exemplary manner.

Many of the suspected most dangerous of sex offenders are not released from prison but are sent via civil court to the Florida Civil Commitment Center. Very few of these clients are ever released to the statewide community as a whole, as their release requires judicial authorization. Many of the offenders counseled in the community are placed on probation (they did not go to prison) or served minimal time incarcerated.

Sexual offenders create a negative mindset for many of us and we certainly have no desire to alter people's personal beliefs. Oftentimes, members of the community are alarmed by the atrocious deeds of a few offenders, which is quite understandable. The civil commitment of some of the most dangerous offenders is a testament to the need for several levels of placement.

Public perception is that most sexual offenders are strangers, unknown to the victims, whether children or adults. The truth is that over 93 percent of sex offenses are committed by family members, personal friends and individuals previously known to the victim. In other words, people are 10 times more likely to be sexually abused by someone they know well.

Many areas have laws that have been passed dictating the distances that an abuser can live from a daycare or church. There is no evidence that these laws actually improve public safety.

It is most disappointing that some members of the media refuse to give the full story when discussing these types of cases. Instead, "stranger danger" has been highlighted repeatedly without a valid review of the facts. We are then lulled into assuming that our family is safe when the danger is more likely to come from someone in or close to our family. Perpetuating myths makes our children more vulnerable to abuse.

Another fact often omitted from presentations and news articles is that the rate of re-offense for sex offenders is 13.7 percent according to several meta-analyses, studies that look at numerous studies on a particular subject. That is less than the rate for all

*****EXHIBIT O*****

offenses, which is nearly 50 percent of released inmates, according to a 2014 Report from the Bureau of Justice Statistics. Studies also demonstrate that treated sexual offenders have lower recidivism rates than untreated sexual offenders.

We, at the ITM Group, have long established an outstanding reputation for helping the people that we serve. It is most unfortunate that some have a different view of one aspect of the work that we do. It goes without saying that we will only operate as authorized by the city planning authorities. We will be a peaceful member of the community and will continue to welcome input from our neighbors regarding their concerns.

A number of members of our treatment team and other professionals in Gainesville have worked with sexual offenders in the local community for at least 35 years without any reported re-offense being connected with the treatment office area. These same clinicians also treat victims of sexual abuse, as they have the training and experience to know how the cycle of abuse is generational in nature.

Studies show that sex offenders do benefit from treatment and that a more effective way to fight abuse is to also treat those who have hurt them. It is unfortunate that neighbors who have supported our initial plans were not contacted for comment in the April 15 front-page article.

We thank The Sun for giving us the opportunity to respond. The goal of sex offender-specific treatment is community safety and protection. We remain committed to making our shared community safer by helping the clients that we are allowed to counsel by the city planning office. Like you, we too are impacted by the problem of abuse of any type, and have committed the past 30 years to helping ameliorate the problem.

Hopefully, the people who read The Sun article will do some additional research to gather information on a topic of concern to us all. Visit www.csom.org for more information.

— Alvin Butler is program director for the ITM Group. A graduate of the University of Florida and a Gainesville native, he attended high school and grew up within blocks of the current 1208 office location. He has been a professional counselor for more than 30 years.

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State leaders meeting to discuss higher education LOCAL & STATE, B1

The Gainesville Sun

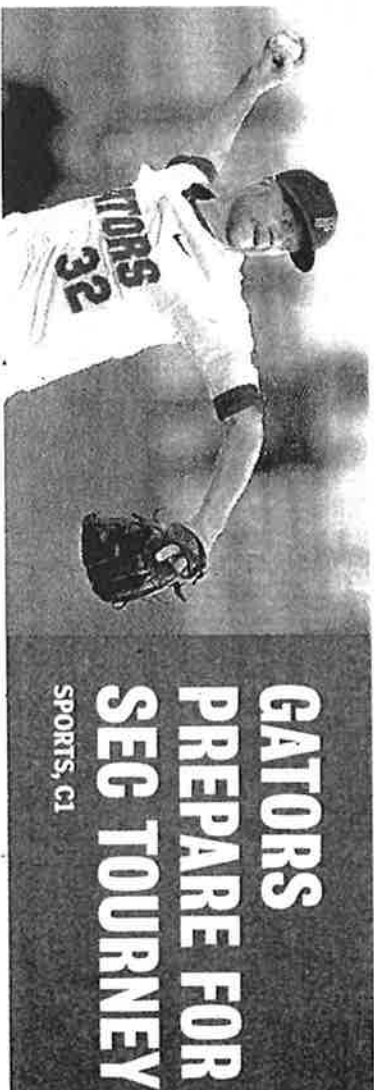


EXHIBIT P

Tuesday, May 24, 2016

gainesville.com

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TODAY WED THU



87°/63° 89°/62° 86°/62°

Complete forecast, B6

LOCAL & STATE



Bridge work to cause late-night headaches

Once again, work to complete the Celebration Pointe bridge over Interstate 75 will mean closing lanes on Interstate 75 in the wee hours of the morning so construction equipment can scuttle back and forth and put massive concrete beams in

INTENSIVE TREATMENT MODALITIES GROUP

Treatment center under fire

Sex offenders treated at site near kids, city commissioner says

By April Warren
Staff writer

A counseling company that assured city officials that it would not service sex offenders at its site close to seven child care centers is sneaking them in the back door, according to a Gainesville commissioner.

"I met with Mr. Alvin Butler," said Commissioner Craig Carter, referring to the program

director for the Intensive Treatment Modalities Group.

"He showed me where they bring the sex offenders in, they bring them in the back door. That's the majority of his business.

"He told me that he's doing all this so if he told you he wasn't he lied to you and I will testify to that," Carter told his fellow commissioners at a meeting last week, recounting his visit in

early May to the center at 1208 NW Sixth St.

Reached by The Sun Monday afternoon, Butler emphatically denied that he said anything of the kind to Carter.

"If the commissioner is speaking the truth, I would be an absolute idiot," he said. "We are absolutely not treating sex offenders" at this location.

"When I met with him ... we were friendly and open. We

were as clear-cut as can be with what we were or not doing," Butler said. He added that if he were treating sex offenders there it would be "insanity."

Carter told commissioners he met with Butler shortly before noon on May 2 after hearing complaints from citizens. He later told The Sun he clearly identified himself as a city commissioner and even handed out his business card.

SEE CENTER, A6

ALACHUA COUNTY FIRE RESCUE

Critical

GRANADA APARTMENTS

Delivery driver.

CENTER

From Page A1

Since opening its doors in mid-April at 1208 NW Sixth St. between two child care centers, ITM has been operating under zoning paperwork signed by the city that allowed the center to be used for "counseling services, including human relations and substance abuse counseling."

Providing sexual offender counseling would require an additional special-use permit that ITM has not applied for because it is not treating sex offenders on the property, ITM staff has told city staff and worried neighbors.

Butler said the center provides other services. "We do disability evaluations, we do general counseling with people who have marital

problems, people who have, I would say, any kind of mental health issue that they would want to seek counseling for," he said, adding that the primary function of the office is administration of various programs.

On May 19, a number of residents went to the City Commission meeting to raise questions about certain individuals they have seen at the center.

"Once it was clear that this was an organization whose business primarily deals with adult and juvenile sex offenders as a majority of its practice, we, too, became alarmed, as in our neighborhood in less than a mile radius there are seven children-oriented institutions," Maria Huff Edwards told the commission, speaking on behalf of the Grove Street neighborhood.

ITM is located near both Grove Street and Oakview

neighborhoods. In response to citizen concerns, Carter went to the site. On Thursday, he talked about his visit. "He (Butler) showed me they are bringing them in the back door ... they put them in an isolation room to keep them separate from their other patients," Carter said.

"Then he took me upstairs, he showed me the whole place, beautiful house, then they said these people are ordered (here) by the Department of Corrections, our largest client. He told me the whole thing," he said. Butler denied that.

"At no time was it stated that we were treating sex offenders," he said. "What we did say was that we had made some renovations to the building that if we had been treating sex offenders this is the area of the building where they would be treated."

As for the DOC vehicle, Butler says no sex offenders are ever brought to treatment by that agency. Neighbors raised alarms about ITM to the commission.

"As a homeowner and someone who has three children right across the street I'm very concerned about this," Patrick Burger said. One female neighbor said her family erected an 8-foot fence around their property after being approached by a male visitor of ITM within four days after it opened looking for some fruit from her yard.

Another woman who lives alone says she no longer feels safe in her own home. City staff also has received reports of a Department of Corrections vehicle parked at the business. The city reached out

to DOC's District 2 to find out if the agency was sending offenders to the location, but the inquiry was met with a negative response. When ITM was asked about the van, the company said it was there for a purpose other than transporting sex offenders, according to City Attorney Nicolle Shalley. But a DOC connection might prove an option going forward.

"The current city code allows a broad variety of counseling services, except when those certain types of counseling services for persons who have social disorders are required, such as by court order," Shalley said. "Current (city) code ... would allow all types of counseling, if the person is attending voluntarily," Shalley said. Shalley said ITM and its legal council have responded in writing

they understand the code language and they aren't treating sex offenders at that location and instead are treated those mandated to sex offender counseling at a different location. ITM had also indicated to the city they might seek a future use permit since that would allow them to treat offenders at that location. The item scheduled to be discussed again by the City Commission during their meeting Thursday, which starts at 1 p.m. Butler said his company is trying to help, not hurt, Gainesville. "We think our primary responsibility is to protect the community so we have chosen to work with a very difficult clientele and sometime we get lumped into the clientele," he said. "We think it's a community service to do the work that we do."

SEARCH

From Page A1

FWC spokeswoman Karen Parker said Monday afternoon that officials from her agency as well as the Levy County Sheriff's Office still were out searching for Valdes.

Frank Kowalczyk, who owns North Florida Offshore Boats in Alachua, said he was out on Seahorse Reef Friday when the storm

"It was just hands on the helm at all times. I rode the complete brunt of the storm out."

—Frank Kowalczyk, owner of North Florida Offshore Boats in Alachua

He was on his own boat Friday with a friend who told him, "Whoa, you see this building?" as the sky darkened and the storm approached.

They had to halt their boat because the storm was "so terrible," he said. They stopped, turned the

preservers aren't sufficient for that kind of storm.

"Anytime you leave any main marker from any place on the coast of Florida, no matter what size boat ... you must have Class 1 offshore life preservers," he said. "If I keep your head out of the

ATTACKED

From Page A1

Police Department headquarters on Northwest Eighth Avenue. He could hardly see as blood dripped down his face.

"Luckyly, I was able to drive, or else that dude was really going to ... leave me for dead," Case said. "It was pretty brutal." The police got Case to UF Health Shands Hospital,

Case was still in the hospital Monday and said he has been receiving medicine that helps his blood clot. He also has a "gnarly black eye" as well as bruises on his body from the attack.

He hasn't decided if he'll keep delivering pizzas after this. "I know my mom doesn't really want me to," he said. William Janzer, who works with Case at Five Star Pizzeria, said what happened to him was messed

up apartment complexes Five Star employees don't go to after dark either because of previous incidents or because they're high-crime areas, he said. After what happened to Jacob, Granada Apartments will probably be added to it. Janzer has launched an online fundraising page for Case to help cover his medical bills and other expenses. It's available at <http://bit.ly/1sNb2M9>. Janzer also said people

BEVILLE CREEK

Nature in the city

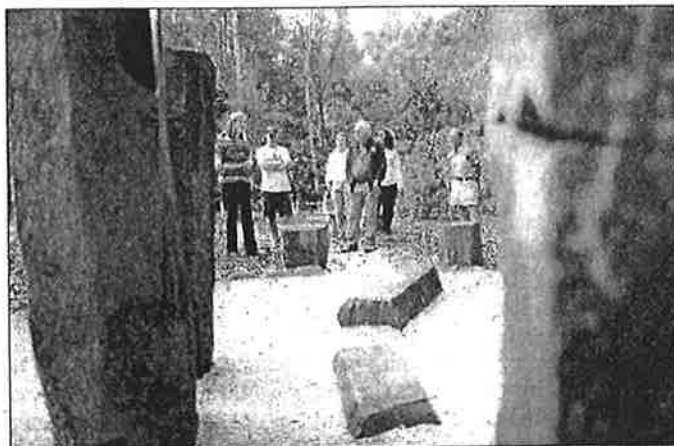


Judy Broward leads a tour group across a newly built bridge spanning Beville Creek during the Cofrin Nature Park Celebration on Tuesday, PHOTOS BY ROB C. WITZEL/STAFF PHOTOGRAPHER

Officials mark reopening of Cofrin Nature Park after renovations

By Katelyn Newberg | Correspondent

As Gladys Cofrin grew up, she ran through the woods on her family's property, naming tree trunks and riding horses. Now, her childhood home on Eighth Avenue is gone, but the land remains as Cofrin Nature Park. City officials and Jacksonville residents gathered Tuesday to celebrate the park's recent renovations. The park, at 4810 NW Sixth Ave., opened in 2005 and has undergone about months of renovations



Judy Broward leads a tour group along the Survivors of Suicide Memory Garden during the Cofrin Nature Park Celebration.

SEE NATURE, A6

ITM CHALLENGES

'Give me a lie detector test'

Carter sticking by his initial remarks

By April Warren
Staff writer

The day after Intensive Treatment Modalities Group's program director denied statements made by City Commissioner Craig Carter that the business is counseling sex offenders at its site near daycare centers, Carter is sticking by his initial remarks.

"Give me a lie detector test," Carter told the Sun on Tuesday, adding that if the newspaper paid for it he would be more than willing to take a polygraph test.

Late last week, a group of concerned neighbors living near ITM's 1206 NW Sixth St. location went before the city commission to say they believe the company is counseling sex offenders at the site.

ITM provides court-ordered counseling services to sex offenders, but doesn't have the necessary city permit needed to work with sex offenders at the Sixth Street location because of its proximity to seven daycare centers.

In response, Carter visited the center himself and last week told his fellow commissioners what he found.

He said Program Director

SEE ITM, A6



Naturalist Don Musen leads a tour group Tuesday as he put work the City of Gainesville did to preserve Beville during the Celebration of Cofrin Park. ROB C. WITZEL/PHOTOGRAPHER

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which affect s'; teachers' and ' grades, are not nt or efficient and unded mandates, ng classroom size nd technological ements, burden ool districts and rs.

ua County Public Superintendent Roberts, School hairwoman Eileen teachers Kim Cook in Bowles testified al, which ended in

ts said he was dis- ed in the judge's

ve the evidence e demonstrates ate funding," said. said she was

"It is nature in such an urbanized environment," she said. "You can literally walk out your back door and have access to a beautiful nature trail. It's priceless."

Across the renovated bridge, yellow flowers bloomed in the new Survivors of Suicide Memory Garden. The garden was

"devastated" by the ruling.

"A lot of people that believe in the value of public schools worked incredibly hard to bring that message to the judge," she said. "This is a blow to public schools."

Southern Legal Counsel said on the 2014 state FCAT 2.0 exam for third-graders, less than half of black students and students eligible for free or reduced-price lunch and less than a third of students learning English or with disabilities were reading at grade level.

Reynolds said plaintiffs mainly argued that the bottom 25 percent of students were poorly served due to lack of resources. He said the state showed schools' successes that implied teacher efficiency, rather than more resources, could benefit them.

Plaintiffs had argued that by facilitating scholarships for private schools, the state diverts public money away from public schools.

Florida offers four scholarship programs: the Florida Tax Credit Scholarship, available to

developed by the Friends of the Crisis Center, a nonprofit organization that supports the Alachua County Crisis Center (1-800-273-TALK), said Judy Broward, the garden's coordinator.

About 500 volunteers helped build the garden. Broward said she wanted it to be a place of healing and peace for those whose loved ones committed suicide.

"I want survivors to get a feeling that they're not alone," she said.

Broward, whose son committed suicide 12 years ago, has worked with the Alachua County Crisis Center to teach others to recognize if someone is feeling suicidal. The garden she helped build contains a basalt memorial, a labyrinth walking path and information about suicide prevention in between the wildflowers.

students eligible for free or reduced-price lunches or those in foster care; the McKay Scholarship, available to students with special needs; the Opportunity Scholarship, available to students who are assigned to a failing public school; and the Gardiner Scholarship, which can be used to buy products or services to assist students with disabilities.

Margot Logan was an intervenor, or nonparty member, in the trial. Logan's 16-year-old daughter, Ciara Logan, has cerebral palsy and uses a McKay Scholarship to attend the Conductive Education Center of Orlando. Margot Logan, a social worker in Winter Park, said Ciara Logan had been physically and verbally abused by a Seminole County public school employee in 2014.

"I am so relieved," Margot Logan said after hearing the judge's decision. "My daughter can continue to have a good education with people who really care about her."

Reynolds' ruling said evidence showed

It came out the way I thought it would, the way I dreamed it would," she said. "This has definitely been so therapeutic for me."

Cofrin, whose donation helped buy the land for the park in 2003, was among those who spoke about the garden and renovated creek. As she addressed the group, she said the park is special to her and Gainesville's residents.

Until the renovations, her former home still sat on the park's property. But it was demolished because the cost of renovating it was deemed too high by city officials.

"I am so lucky, so incredibly lucky, that I had 30 acres," Cofrin told the crowd. "It made such an impact on me; I want other people to have that in their lives. It's all part of what makes Gainesville so special."

scholarship programs could improve quality and efficiency in the state's education system.

The lawsuit, filed in 2009, is one of many across the country to argue that states are failing their students by poorly funding education. California, Connecticut, Pennsylvania, Tennessee, Kansas, New York and Texas have gone to trial to defend their policies.

Reynolds wrote that although the State Board of Education has flaws, they are not severe enough to justify intervention.

"The Court finds, based on the evidence presented, that there is not a constitutional level lack of resources available in Florida schools," Reynolds wrote. "That doesn't mean that everything is perfect, it simply means that there is not a constitutional level crisis sufficient to warrant judicial intervention."

—Contact Deborah Strange at 352-338-3166, deborah.strange@gvillesun.com or on Twitter, @DeborahJStrange.

ITM

From Page A1

Alvin Butler "showed me where they bring the sex offenders in, they bring them in the back door. That's the majority of his business."

Butler adamantly told the Sun on Monday sex offenders are not being seen at the location. "If the commissioner is speaking the truth, I would be an absolute idiot," he said. "We are absolutely not treating sex offenders" at this location.

Carter stood by his comments on Tuesday.

"He told me that he's doing all this, so if he told you he wasn't, he lied to you and I will testify to that," he said.

Carter has also said ITM originally applied to counsel sex offenders at a different location and was denied by the city, then omitted sex offender counseling from their application to operate at the Sixth Street location and were approved, a move Carter calls "deceitful."

Carter said that during his May 2 tour of the ITM facility Butler said he brings the sex offenders in through the back door and then segregates them from others being counseled. Carter said he asked Butler why the need for segregation if Butler believed his actions — treating sex offenders — were allowed.

"I don't remember him responding to that, to be honest," Carter said Tuesday.

Butler told the Sun, "What we did say was that we had made some renovations to the building that if we had been treating sex offenders, this is the area of the building where they would be treated."

City Attorney Nicolle Shalley said ITM has indicated it might seek a future use permit that would allow them to treat offenders at the Sixth Street location.

The issue is on the agenda of the city commission's meeting, which begins at 1 p.m. Thursday.

Get your house in shape before summer hits LIFE, D1

The Gainesville Sun



UF SOFTBALL FALLS TO GEORGIA

SPORTS, C1

Friday, May 27, 2016

gainesville.com

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TODAY SAT SUN



87°/64°



88°/65°



89°/66°

Complete forecast, B8

SPORTS

Warriors get a win

Golden State wins on home court to stave off elimination against Oklahoma City. C1

NATION & WORLD



SEX OFFENDER CLAIMS

By April Warren
Staff writer

Goston: ITM set to sue city

A Gainesville City Commissioner told his colleagues Thursday if they didn't proceed with caution in pursuing allegations a local business is improperly treating sex offenders, the company is ready to take legal action against the city.

"They are preparing to go to war with the city," Commissioner Charles Goston said. "I'm trying to make sure that if I can prevent that, I will."

During a meeting Thursday, Goston said he had met

earlier in the day with Intensive Treatment Modalities program director Alvin Butler, whom he has known for many years.

"Knowing Mr. Butler for a long, long, time ... he's not the kind of guy to back down," he said. "What could have been an internal, sit-down, get the rules straight situation now is a political football."

Goston did not elaborate on what grounds ITM might sue the city. Butler could not be reached for comment.

Goston said Butler had told him ITM company is not treating sex offenders at its new

center at 1208 NW Sixth St., which is in the same neighborhood as seven daycare centers. The treatment company does offer such services at other sites.

Butler's statements are in contrast to what Commissioner Craig Carter this week said. Butler told him when he visited ITM's Sixth Street site on May 2. Carter insists that Butler not only told him he was treating sex offenders there, he showed him where they were brought in through a back door.

ITM does not have the required city permit to treat court-ordered sex offenders at

that location, according to city staff.

Carter's visit came after residents raised complaint about ITM. Butler told the Sun this week that ITM is providing counseling services at the location, but not to sex offenders.

On Thursday, Carter stood by his comments and reiterated he would take a lie detector test. Goston said Butler told him that he would pay for Carter to take the polygraph.

Carter stressed that he is not against ITM or any of its clients

SEE ITM, A6

NW EIGHTH AVENUE

Missing: the 'Memorial' MRI's?

SEX DISCRIMINATION

Gov. Scott:

EXHIBIT R

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NEIGHBORHOOD DISPUTE

Are fears unfounded?



The ITM building for professional counseling and educational services at 1208 NW Sixth St. in Gainesville. MATT STAMEY/STAFF PHOTOGRAPHER

ITM Group has been treating sex offenders locally for decades

By April Warren
Staff writer

The mere thought of sex offenders going to a center in a Gainesville neighborhood for counseling was enough last month to make residents irate and send a city commissioner on a fact-finding mission.

The concerns focused on the potential threat to children at the handful of day-care centers in the area of the new treatment site at 1208 NW Sixth St.

But one key element has been overlooked

in the controversy: The company at the heart of the dispute, The ITM Group, has been quietly treating sex offenders in Gainesville for decades.

And according to police records, there are no reports of clients attacking neighbors.

Experts say that's not unusual, for a variety of reasons.

For one, the vast majority — 80 percent — of sex offenders know their victims and don't attack strangers. Also, sex offenders aren't going to cause trouble where they are

SEE FEARS, A6

TAMPA RALLY

Hope: attack GOP critics

By Zac Anderson
GateHouse Media Services

TAMPA — At a presidential candidate rally are trying to unify their party, Donald Trump arrived in Tampa on Monday and laid into his Republican critics.

The presumed GOP presidential nominee called Republican nominee Mitt Romney a "loser" and repeated jabs at former presidential rival Jeb Bush.

The event highlighted how nervous so many Republicans are about Trump's candidacy. Instead of pivoting to the general election, Trump urged his party to take on Democratic presidential nominee Hillary Clinton, Trump strayed from his main message of engage in intra-party

s



Republican presidential candidate Donald Trump gestures during a campaign speech in Tampa on Monday. CHRIS O'MEARA/THE ASSOCIATED PRESS

FEARS

From Page A1

seeking treatment because they know they are being watched.

"That's when these people are on their best behavior," said Alissa Ackerman, a criminal justice professor at the University of Washington and a sex crimes researcher.

But at least one local counselor familiar with ITM supports their work while appreciating the fears.

"I understand the concerns about the neighbors," said Clifford Levin, a Gainesville psychologist who has worked in the field of sex offender treatment for more than 30 years.

"To be fair, there are some sex offenders that are dangerous to have in your neighborhood," Levin said, adding that typically these are pedophiles who likely don't make up much of ITM's clientele.

"There's credibility for the neighbors' concerns," he said, "but most of the clientele would not be an imminent danger."

ITM has been operating in Gainesville since the mid-1990s, according to program director Alvin Butler. A counseling and mental

at 225 SW Seventh Terrace, adjacent to the Innovation Square area.

The area is home to a number of businesses, whose owners have not had any issues with their neighbor.

"(We've had) no problems with them," said Buddy Wise owner of Wise's Pharmacy, two buildings down from ITM. The Gainesville Police Department shows three

incident reports at the location in the last five years. One involved a letter delivered to an ITM therapist from the

estranged significant other of one of her clients in 2012. A second involved a stolen cellphone in 2015.

The third, in February, involved a missing juvenile who was seeking anger management treatment at the facility.

According to Levin, Village Counseling and ITM are pretty much the go-to places in town for sex offender treatment.

"I respect them highly," said Levin of ITM. "I would refer to them and do refer to them."

"A lot of people don't want to work with adults just due to concerns and stereotypes and the community fears, in which a lot of them are unfounded," said Robert

Edelman, a licensed juvenile sex offender therapist and CEO of the Village Counseling Center in Gainesville.

Facts

■ 425 sexual offenders and sexual predators live in Alachua County.

■ 125 live in Gainesville.

■ 182 sex offenders and 15 predators are in Alachua County and supervised by the Sheriff's Office.

■ 100 offenders/predators living in Alachua County are on state or federal probation.

■ 75 of those live in Gainesville, 25 in the county.

■ A 2003 study, considered the largest look at recidivism rates for sex offenders, found they had a lower overall rate when compared to non-sex offenders released from prison in 1994.

Sources: The Department of Justice's Bureau of Justice Statistics; Alachua County Sheriff's Office

There are seven child-oriented institutions less than a mile from ITM,

according to Maria Huff Edwards, who spoke at the meeting on behalf of the Grove Street Neighborhood. Residents were worried about children riding an RTS bus with sex offenders. One woman said she was approached on her property by a man from ITM who asked about fruit in her yard. She said her family had since built a fence.

Deborah Hart, a clinical social worker who operates a business across the street from ITM, worried about possible impacts on her clients.

"I have a counseling practice, I treat trauma survivors. I also treat survivors of, sometimes, sexual violence," Hart said. "I bought my building because I wanted to be in a pleasant place to do the

offenders to acknowledge the victim. He has seen offenders rationalize their behavior to the point where they're convinced they haven't harmed anyone.

"It helps them to understand and take accountability and responsibility for their actions," Ackerman said. "It helps them understand why they offended in the first place. It helps them have empathy."

As for residents' concerns, she said the centers provide a vital service.

"We should be encouraging and having faith and trust in treatment providers," she said.

■■■

Those familiar with the sex offender term point out the term's vagueness. "The net of the label of 'sex offender' is cast so wide that the label itself doesn't really tell you that much about the actual person that is being labeled," said Public Defender Stacy Scott.

She said the designation can cover someone who was 18 and had a consensual relationship with someone younger, to someone who molests a young child.

"That label can stick with someone for life so even a juvenile can be labeled a sex offender for life for a crime they committed as a juvenile," Scott said.

Law Enforcement, a sex predator is someone convicted of a sexually violent offense. Scott said these can be repeat offenders or someone who has raped or sexually battered a child under the age of 12.

Certain offenders and predators may also be subject to restrictions on where they can live, based on their probation terms or restrictions laid out under Florida law, depending on where the offense occurred and the victim's age. Such restrictions keep certain individuals from living within 1,000 feet of a school, playground, park or child care facility.

As of May 2016, in the county's unincorporated area, 16 offenders and one predator were subject to such restrictions, according to the Alachua County Sheriff's Office.

While Alachua County doesn't have an ordinance that further restricts where predators and offenders can live, a Gainesville ordinance prohibits offenders and predators from living within 2,500 feet of a park, school or day-care center. GPD checks in on offenders and predators within its jurisdiction to make sure they are complying with these restrictions.

Ackerman said research shows placing such restrictions on offenders doesn't reduce the risk of reoffending and doesn't

ITM has been operating in Gainesville since the mid-1990s, according to Program director Alvin Butler.

A counseling and mental health facility that has on its staff psychologists, mental health counselors and clinical social workers, it began with the help of Ted Shaw, who previously worked in the sex offender unit of the North Florida Evaluation and Treatment Center and earned a doctorate in psychology from the University of Florida.

Shaw, a well-respected member of the field, died in 2012.

Both the state Department of Corrections and the Association for the Treatment of Sexual Abusers recommend ITM. Butler has said ITM treats sex offenders, but not at its new location. ITM has one other center,

which a lot of them are unfounded," said Robert Edelman, a licensed juvenile sex offender therapist and CEO of the Village Counseling Center in Gainesville.

According to Edelman, ITM has a "great deal of integrity" and he worked with Butler for about six years.

"I don't have any concerns with him," Edelman said.

Edelman worked with Shaw for a time and still remembers his motto: "I'm keeping the community safe and children safe by treating adults to help offenses from happening."

On May 19, several neighbors and business owners near ITM's new Northwest Sixth Street location went before the City Commission to raise concerns about the center.

Practice, I treat trauma survivors. I also treat survivors of, sometimes, sexual violence," Hart said. "I bought my building because I wanted to be in a pleasant place to do the very sacred work that I do with trauma survivors."

She also spoke of being threatened by individuals wanting to park in her lot and then go to ITM.

"They back in so you can't see their license plate. That seems inappropriate. When I ask them to leave they say threatening things to me, so that means I need to protect the people coming to my place."

Neighbors have met with police about their concerns.

Butler has said repeatedly that ITM isn't treating sex offenders at the Sixth Street center. To treat sex offenders there, ITM would need a special-use permit, which it has not

recent negative attention ITM has received.

Levin said he knows Butler and it would be out of character for him to sneak people in a back door. He said when he heard that allegation, he laughed out loud.

"At best, it was a misunderstanding," Levin said.

Ackerman, the University of Washington professor, said fears about being attacked by a sex offender on the street are unfounded.

"The vast majority of people who are victimized are victimized by someone they know," she said. "It's over 80 percent."

Ackerman also says offenders aren't going to offend near areas where they are seeking treatment because they know they're being watched.

Levin said treatment involves getting sex

"That label can stick with someone for life so even a juvenile can be labeled a sex offender for life for a crime they committed as a juvenile," Scott said.

"We see a lot of people get caught up in that net, that's really... they aren't the people the public is worried about."

Scott recalled two cases in recent years in which young male defendants were involved with underage girls whose parents were fine with the pairing because it looked like the relationships were heading toward marriage. When the relationships fell apart, the parents pressed charges.

Above the offender category on the risk scale are sexual predators. Predators are repeat offenders or those whose crimes are more violent.

According to the Florida Department of

complying with these restrictions.

Ackerman said research shows placing such restrictions on offenders doesn't reduce the risk of reoffending and doesn't have much effect at all.

"The public believes these policies work and they don't," Ackerman said. "You take people and you isolate them... and you put in place barriers for social interaction, you destabilize them."

When people can't find housing or job opportunities in addition to a lack of social support, it causes them a lot of stress, she said.

Instead, she said, the focus should be on prevention and treatment.

"Treatment is a really, really positive thing," she said. "Once caught and with treatment these people do not reoffend. (We see) very, very low rates of recidivism."



Residency Rule for Sex Offenders Under Scrutiny

Thursday

Posted Dec 3, 2009 at 10:13 PM

In September, Edward finished his 10-year sentence on lewd and lascivious assault and walked out of Avon Park Correctional Institution a free man. Almost.

By SHOSHANA WALTER THE LEDGER In September, Edward finished his 10-year sentence on lewd and lascivious assault and walked out of Avon Park Correctional Institution a free man.

Almost.

When Edward gave the Department of Corrections his new address in Winter Haven, he was told it was out of the question. As a sexual predator, he'd have 48 hours to find a suitable location and to register his new address.

He abided by law and registered - as transient. Ninety days later, Edward is still looking.

That is the unintended consequence, counselors and offenders say, of a 2006 county ordinance that expanded residency restrictions for offenders and predators. The ordinance is under renewed scrutiny after the arrest last month of a group of homeless sex predators in Auburndale.

Supporters have said the ordinance is for the protection of the public, but critics say that it's had the opposite effect. It's increased the number of homeless sex predators and offenders, actually increasing the likelihood of further offenses.

"Desperate people do desperate things if they feel like there's no hope," Edward said in a recent interview. He is currently living on-and-off with family in Auburndale. "People can change. They have to want to. But if they're told everyday that they can't, why would they believe that they could?"

Polk County is among several Florida counties that have gone beyond state law to expand restrictions. Now many counties are facing similar challenges, and offenders and those who treat them say county commissioners should rethink the ordinance.

EDWARD'S STORY

By the time he reached 25 years old, Edward, who grew up in Winter Haven, had a wife, five children and a lucrative career running his own car- and motorcycle-detailing business. He also had a long-running addiction to drugs and alcohol.

He was about "as morally bankrupt as you can get" by the time of his first offense in 1996, when he was charged with possessing a photograph that included sexual conduct by a child.

The child was the 14-year-old daughter of a woman with whom he frequently partied and whom he hired for a promotional event. The girl and her mother both wore bikinis to the party and stood by motorcycles while Edward snapped photographs. Everyone was drinking, including the girl. When she began to strip, Edward continued taking pictures.

The second offense occurred in 1999 and involved another 14-year-old, also the daughter of an employee. He had just dropped off the girl's 21-year-old boyfriend when Edward and the girl began to mess around. One thing led to another, and before the situation escalated further, Edward said the girl "flipped out."

"Physically, this wasn't a pubescent child. But she wasn't emotionally or mentally ready to make that decision," he said. She reported the incident and he was charged with lewd and lascivious assault.

Edward spent the next 10 years watching his children grow up in photographs and receiving help for his drug and alcohol abuse. Today, Edward easily admits that his actions were wrong.

He has a support system of friends and family in Polk County who have provided him with food, bathrooms and beds. While he looks for a full-time job and a permanent residence, his sister, brother and nephew watch him closely to ensure he doesn't seek the comfort of alcohol and drugs.

The nearly 50 other homeless offenders in Polk County may not be so lucky.

Those without a support system, he says, are much more likely to fall into old patterns of behavior. And what of the stress of lacking a home, the depression that comes with loneliness and the anxiety of finding and maintaining a job?

Richard Brimer has led court-ordered sex offender treatment groups in Lakeland for more than 20 years.

"These kinds of things are going to make an offender more apt to act out. When an offender lives in a home, not only does he have more stability, he has an address." That also lessens the burden on law enforcement to track them, he says.

Brimer says that county commissioners did not think about the ramifications of the ordinance, and Polk County Sheriff Grady Judd's zero-tolerance approach does not help the problem.

"I could understand his passion to want to rid the community of sex offenders and predators. But it's not realistic. They're going to be among us. They're going to be released from prison, they're going to come back here," he says.

"This isn't about me feeling sorry for predators. It's about me advocating for community safety."

AN EXAMPLE

A group of seven homeless sex predators in Auburndale moved three times in a week before they were arrested in an orange grove Nov. 24 on charges of trespassing, violating their probation and failure to register.

The original tent city off Reynolds Road in Auburndale included 18 offenders, mostly predators, but after the Sheriff's Office told them to move, the group split up.

About seven of them moved to Tropical Moon mobile home park off Old Dixie Highway in Auburndale, where park owner Lori Crump, a former Department of Corrections officer, allowed them to stay temporarily. Because the park is located across the street from a school bus stop, the group was told to move again.

No one in the park, which includes many tenants who are sex offenders, knew where the group could go.

"Predators and offenders live all over the county. I don't want to listen to their whining," Judd said at the time. "They're felons. They're either going to comply or they're going to find a place to live in the Polk County Jail."

On Nov. 22, the group moved to another privately owned citrus grove off Hickory Road in Auburndale. The next day, deputies arrested them for trespassing, among other charges.

Boyd Vonleue just barely missed the arrest. The 47-year-old was living in the tent city off Reynolds Road because he couldn't find a place to live. He finally found an apartment just outside of Lakeland through a friend, who convinced his landlord to allow Vonleue to move in.

"I got lucky," he said. "If it hadn't been for friends, I would probably still be living in a grove."

Vonleue, classified a sexual predator, was released from prison in October after serving more than 15 years for sexual battery on a victim younger than 12. He doesn't want to live elsewhere because he grew up in Polk County and has a support system here. He also works for his brother, who first began the fruitless search for Vonleue about a month before his release.

Vonleue says he intends to fight the ordinance in court.

The part of the ordinance that "hurts the most" is the rule that predators must live at least 1,000 feet away from school bus stops, he said. While the ordinance keeps predators from living nearby, it does little to prevent them from treading near restricted places, he said. That means it's ineffective in preventing wayward offenders from offending again.

"The ordinance doesn't work," he said. "The place I would have been in was a fenced-in area away from any schools and churches. When I lived in the grove, we drove by six bus stops every day on the way to work."

PROBLEMS AND SOLUTIONS

Many predators like Vonleue had the same experience upon their release from prison.

They provided authorities with an address, which they were told violated the Polk County ordinance or state law. Once they were out, they'd have 48 hours to find another home and register.

The process for finding a residence is mainly trial and error. Once an offender has found a potential residence, he or she contacts their probation officer or the Sheriff's Office. The Sheriff's Office plugs the address into a computerized mapping system that shows whether or not it is out of a restricted zone. If it's not, it's back to the drawing board, and the offender must try again.

Although the DOC is allowed to provide offenders and predators with some guidance, both it and the Sheriff's Office say they do not tell offenders where they can live. They're on their own for that.

The DOC admits the ordinance has made finding housing more challenging for offenders. Crump, the former probation officer for the DOC, said the ordinance has also placed an extra burden on law enforcement by making it more difficult to track offenders.

And treatment providers like Brimer say the ordinance ignores the reality of sex offenses - that most are not committed by strangers. In two years of child sexual abuse investigations by the Polk County Sheriff's Office, 94 percent of crimes were committed by suspects the victims knew, like Edward, including family members, friends and acquaintances.

So what are the solutions?

Offenders would like to see a tiered system in Florida that separates offenders into more specific categories, with restrictions based on the individual. Brimer said many counties have proposed other rules in place of certain residency restrictions.

Broward County commissioners appointed the Sexual Offender and Sexual Predator Residence Task Force - a group comprising local officials, experts, scholars and law enforcement - to study the effects of the county's 2,500-foot ordinance.

In an August report, the group suggested 300-foot loitering zones as an alternative to the ordinance. The rule would restrict offenders from loitering or congregating in places heavily populated by children.

Many say they'd also like to see areas designated specifically for sex offender housing, and a more efficient system for finding approved residences.

For offenders, the changes would allow them "to pick up the pieces of their lives and be productive members of society," Edward says. Brimer and Crump agree that more stability for offenders is safer for all.

"If the county could get together and talk about this issue with victim's advocates and law enforcement, we could sit down and come up with a viable option," Brimer said.

The ordinance was passed unanimously in 2006 following a single presentation by Judd. But since the arrests last month, many involved in the debate have contacted county commissioners to renew discussion.

District 4 Commissioner Jean Reed, who was not elected at the time of the commission's vote, said she would be open to that discussion.

"Many children walk half a mile to our schools so I feel the ordinance is reasonable, and probably necessary, for our children's health, safety, and welfare," she wrote in an e-mail to The Ledger.

"However, if there are some unintended consequences that need to be addressed, I certainly am willing to discuss them further."

[Shoshana Walter can be reached at shoshana.walter@theledger.com or 863-802-7590.]



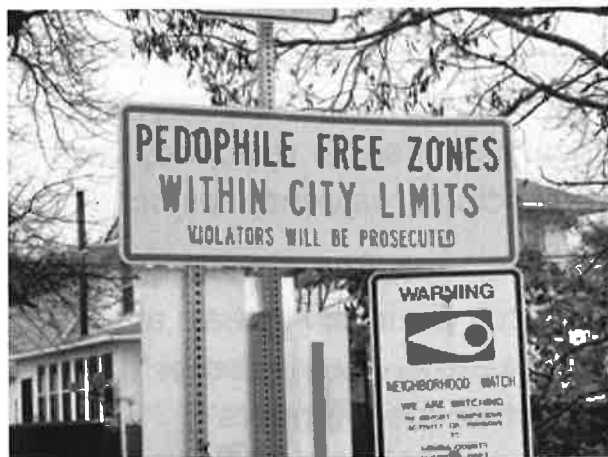
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NATIONAL PULSE

Courts are reconsidering residency restrictions for sex offenders

POSTED JUL 01, 2015 05:10 AM CDT

BY LORELEI LAIRD ([HTTP://WWW.ABAJOURNAL.COM/AUTHORS/27616/](http://www.abajournal.com/authors/27616/))



Residency restrictions eliminate so much housing that they force paroled offenders into homelessness. Creative Commons.

they ended up living in the alley behind the parole office, in the bed of the

In 2006, California voters passed "Jessica's Law," a ballot initiative that prohibited registered sex offenders from living within 2,000 feet of a school or park. In 2011, crime analyst Julie Wartell of the San Diego County District Attorney's Office analyzed how much housing was left for those offenders. Consulting land-use files, she concluded that just 0.7 percent of multifamily parcels in the county were compliant.

That analysis came as part of a trial court's hearing in *In re Taylor*, a habeas corpus case brought by four San Diego County parolees. All four planned to live with family or friends after leaving prison, but they couldn't because the homes were not compliant with Jessica's Law. Instead,

(seasonally dry) San Diego River, in vehicles or in noncompliant homes. When plaintiff William Taylor ended up hospitalized, he was rearrested for failing to register the hospital's address with police.

That's part of why the California Supreme Court struck down the blanket application of Jessica's Law in March's *In re Taylor*

(<http://www.courts.ca.gov/opinions/documents/S206143.PDF>) (PDF). The justices noted that parole officers may impose residency restrictions on a case-by-case basis. But they unanimously agreed that universal application of the law violates offenders' constitutional rights—and doesn't keep children safe.

The law "has hampered efforts to monitor, supervise and rehabilitate such parolees in the interests of public safety, and as such, bears no rational relationship to advancing the state's legitimate goal of protecting children from sexual predators," now-retired Justice Marvin Baxter wrote.

Though the decision applied only to parolees in San Diego County, the California Department of Corrections and Rehabilitation soon extended it to parolees statewide. CDCR spokesman Luis Patino says the state attorney general's office believes courts would apply *Taylor* to every county.

California is not the only such state. Later in March, a Michigan federal court struck down application of that state's "geographic exclusion zones" to six plaintiffs, saying the law is unconstitutionally vague. And in February, the New York Court of Appeals ruled that all local sex offender residency laws are pre-empted by state law, which does not include residency restrictions.

Courts weren't always so friendly to these challenges. The highest court to rule on residency restrictions, the 8th U.S. Circuit Court of Appeals at St. Louis, ruled in 2005's *Doe v. Miller* (<http://media.ca8.uscourts.gov/opndir/05/04/041568P.pdf>) (PDF) that Iowa's residency restrictions did not violate offenders' constitutional rights. That's an important case, says professor Wayne Logan of Florida State University College of Law. Most courts considering federal challenges on the issue have followed it.

But there are signs that things are changing. Responding to compelling personal stories and mounting evidence that residency restrictions don't work—and might even hurt public safety—courts are casting a more critical eye on these laws.

“There’s a public appetite for [sex offender laws], but there’s no evidentiary support that either registries or exclusion zones work,” says Miriam Aukerman, a lawyer for the American Civil Liberties Union of Michigan who represented the plaintiffs in the Michigan case. “And as a result, you’re seeing judges starting to rethink this.”

The facts of *Taylor* point to one of the biggest criticisms of residency restrictions: They often eliminate so much housing that they force ex-offenders into homelessness. A 2011 report from the California Sex Offender Management Board expressly noted that “nearly 32 percent of sex offenders on parole are homeless due to Jessica’s Law.”

This causes multiple public safety problems, says Jill Levenson, an associate professor of social work at Barry University in Miami Shores, Florida. By barring offenders from living with family members in noncompliant homes, she says, the laws reduce their chances of stable housing, stable jobs and social support, all of which are known to lower the chance of recidivism.

When offenders are homeless—or can plausibly claim to be homeless, then move into non-compliant homes—it’s also harder for police to keep track of them. That’s why the New Hampshire state police supported a bid to eliminate the state’s residency restrictions this year, and it’s one reason Palm Beach County, Florida, relaxed its restrictions in 2014.

And perhaps most damning, Levenson says the consensus among social science researchers is that residency laws don’t reduce recidivism. “We know from decades of research that most child sex abuse victims are well-known to their perpetrators,” she says. “So a person’s residential proximity ... is really irrelevant.”

AGAINST THE TRENDS

Those issues were part of the California Supreme Court’s rationale for finding that Jessica’s Law violates parolees’ fundamental rights under the 14th Amendment—rights to do things like establish a home, travel within the state and enjoy privacy and free association. Though parolees have limited constitutional rights, the court said, the law can’t survive even lowered scrutiny because it has no rational relationship to its own goal.

Logan says the ruling bucks several trends. It's not unusual for state high courts to strike down residency laws, he says, but they're generally using state constitutions' ex post facto clauses to nix retroactive application. And it is unusual for courts considering federal law to decide for plaintiffs, he says, because those courts generally follow *Miller*.

Professor J.J. Prescott of the University of Michigan Law School agrees that federal courts generally have been less friendly than state courts, but he notes that the Michigan decision, *Doe v. Snyder*

(<http://www.clearinghouse.net/chDocs/public/CJ-MI-0004-0001.pdf>) (PDF), accepted vagueness arguments—which were rejected in *Miller*.

And, Prescott says, there's some evidence that federal courts are compromising—not throwing out laws entirely, but voiding certain provisions. He points to a February decision from the Middle District of Alabama,

McGuire v. Strange (<http://law.justia.com/cases/federal/district-courts/alabama/almdce/2:2011cv01027/46936/283/>), which threw out requirements that offenders check in with two police agencies per week and get permission from two agencies before leaving the county. That judge denied other challenges to Alabama's registration law but called it “the most comprehensive, debilitating sex offender scheme in the land.”

“The facts on the ground [are] changing, and that means the decisions are coming out differently than they otherwise would,” Prescott says. “They're just not reflexively deciding in favor of the government, as they used to.”

Though *Taylor* was a victory for Californians subject to residency restrictions, it was paired with a less favorable case. *People v. Mosley*

(<http://www.courts.ca.gov/opinions/documents/S187965.PDF>) found that a judge may impose registration and residency requirements without violating the U.S. Supreme Court's 2000 ruling in *Apprendi v. New Jersey* (<http://caselaw.findlaw.com/us-supreme-court/530/466.html>), which requires a jury to decide any facts that increase punishment.

BATTLING BANISHMENT

Janice Bellucci, president of California Reform Sex Offender Laws and an attorney in Santa Maria, says *Mosley* “ducked the issue entirely” of whether residency restrictions are punitive. She's also not entirely happy with *Taylor*

because it doesn't affect residency requirements for people who have finished parole. As a result, she says, "we're going to spend a long time in court trying to clarify the meaning of *Taylor*." Her organization expects to file some of those claims.

Bellucci argues that residency restrictions are tantamount to banishment. For example, she says, ex-offenders cannot legally live anywhere in the dense city of San Francisco. And in one case she handled against the Orange County city of Cypress, the only parcels open to ex-offenders were a big-box retail area and a cemetery.

This hurts not only ex-offenders but also the spouses, children and parents who can't live with them, she says.


"It's one thing if in fact restrictions would achieve the purported goal, but they don't," Bellucci says. "When you have ineffective laws that are violating people's constitutional rights, it's time to get rid of them."

This article originally appeared in the July 2015 issue of the ABA Journal with this headline: "A Place to Call Home: Courts are reconsidering residency restrictions for sex offenders."



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CRIME & COURTS

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Hillsborough proposal to restrict sexual predators could backfire, experts say

By Elaine Silvestrini | Tribune Staff

Published: February 26, 2016
 Updated: February 27, 2016 at 07:58 AM

TAMPA — Keeping sex offenders far away from children is a popular idea for obvious reasons.

And the Hillsborough County Commission is considering a measure that would force sexual predators to live even farther from places where children gather than current law requires.

But experts say the proposal — modeled on restrictions enacted in Pasco County and across the country — is likely to make offenders more dangerous, not less.

The ordinance suggested by Commissioner Sandy Murman would prohibit sexual predators — with victims younger than 16 — from living within 2,500 feet of places where children congregate, including schools, playgrounds and libraries.

The ordinance would make living restrictions tougher than under state law mandating a 1,000-foot buffer.

“I want the community to be safe,” said Leo Cotter, a therapist who has treated sex offenders in Hillsborough and Pinellas Counties for more than 30 years. “I have three kids. I don’t like to see kids sexually abused, but the residency restrictions are not the way.”

Cotter and other experts say research resoundingly has shown that residency restrictions don’t reduce recidivism.

But they do make it difficult, sometimes impossible, for the offenders to find stable homes and maintain connections with support systems such as family, friends, mental health services and jobs. Without those supports, the offenders are more likely to commit crimes.

The U.S. Department of Justice, for example, published a report last year that says research has concluded that residence restrictions do not decrease and are not a deterrent to sexual offenders committing new crimes. The Justice Department report also says research shows the restrictive laws meant many sexual offenders had to move despite limited housing options, particularly in urban areas.

This led to increased homelessness, loss of family support, and financial hardship.



This is not the first time the Hillsborough County Commission has considered tightening residence restrictions for sex offenders. In 2007, commissioners brought in the sheriff's office to help formulate a plan.

The sheriff's office opposed increasing the buffer zones because deputies effectively had been monitoring the predators under the state statute. Deputies feared that if the distances grew, the predators would go underground, making monitoring harder.

Cotter said close monitoring of sex offenders is what makes the community safe.

"Residence restrictions doesn't mean the guy can't live next door to a family with six kids," he said. "That's the crazy thing about this. The idea appealed to people in the beginning, but the reality is it is not effective policy."

Murman told The Tampa Tribune she is working with the sheriff's office, too. Her proposal, she said, is merely a starting point and may wind up being different after all information is gathered.

Hillsborough Sheriff David Gee was not available to comment on the issue, said spokesman Larry McKinnon.

Tampa Police Department spokesman Stephen Hegarty said officials at the department had questions, including whether TPD would be expected to enforce the ordinance and whether sex offenders' current residences would be grandfathered into the ordinance. "If they're not, there's going to be a lot of movement, which will make enforcement more difficult," Hegarty said.

"Anything that helps protect the children I think is a good idea," Murman said. "I want to make a good ordinance. I don't want to make an ordinance that's going to cause further problems."

Murman said she has heard from sheriff's office officials that sex offenders who work in Polk and Pasco counties are living in Hillsborough County because the residence restrictions here aren't as strict. She didn't have statistics to support that but said she doesn't want the county to stand out negatively, considering 40 other counties in the state have more stringent restrictions.

She said Miami-Dade County limited its restrictions to distances from schools, which Murman said might be something to examine. "That's where our kids go to spend a big chunk of their day. That could be where we start, but we're going to have to look at our maps to make sure we have enough space for people to live."

Asked to provide data in support of her residence restriction proposal, Murman sent the Tribune a research report about Florida transients that concluded sex offender residency restrictions are bad public policy that contribute to the risk that sex offenders will commit more crimes.

Murman noted in an email that the report cites "one survey that found that 71% of respondents would support such laws even if there was no scientific evidence that they reduced sexual abuse and also the fact that the numbers of sexual predators and offenders are increasing annually."

Murman added, "You can't put a price on a child's life — it is way too precious but if we can help keep our communities safer it will be worth it."

The lead author of the transient report cited by Murman said it should not be used to support residency restrictions.

"This commissioner's use of the FL transience report to support her position is a mischaracterization," Jill Levenson, professor of social work at Barry University in South Florida, said in an email. "There is no statement at all in that report that she could be citing in support of

SORR (sex offender residency restriction) laws and the report clearly demonstrates the association between SORR laws and transience.

"The figure she cites, that 71% of citizens would support these laws even in the absence of evidence of their effectiveness, is used out of context. In the report, that figure demonstrates that the public is largely misinformed about these kinds of laws. While I understand that policy makers want to support legislation that their constituents favor, they also have a responsibility to their constituents to utilize taxpayer money efficiently through passage of evidence-based policies."

Murman also provided the Tribune a report from the state Legislature's Office of Program Policy Analysis and Government Accountability that dealt with sex offender registration and monitoring but not residency restrictions.

Levenson said that report "states in several places that transient sex offenders are a major problem in Florida and that monitoring them is difficult. There is no doubt in the research literature that residence restrictions are the primary contributor to transience."

Levenson said the county commission should consider a recent Justice Department agency report "advising against passing residence restrictions, and declaring that there is no evidence to support their effectiveness and that they undermine offender reintegration and law enforcement monitoring."

Moreover, Levenson said, "the reason that the numbers of offenders and predators are increasing is not because sex crimes are increasing, but because the registration statutes nationwide are requiring more people convicted of various crimes to register."

Murman says there are 1,835 sex offenders living in the county, including 261 classified as sexual predators. Murman said she is focused on the predators, "the most serious" offenders.

❖ ❖ ❖

In spite of the overwhelming research, some residency restrictions have withstood court scrutiny. The American Civil Liberties Union last year lost a case it filed against Miami-Dade County over its restrictions. But ACLU lawyer Adam Tebrugge said courts lately have given the restrictions closer scrutiny. State and federal courts have overturned such laws in California and Michigan.

At the same time, he said, some local governments, including Palm Beach County, are scaling back their laws because they are causing more problems than they solve.

Tebrugge said the ACLU is closely monitoring the Hillsborough County situation and "contemplating legal action" if the restrictions are implemented.

Robert Parham, a therapist who treats sex offenders, is on the board of the Florida Association for the Treatment of Sexual Abusers. "We also want to protect children," he said. "The issue is the residency restrictions don't do that."

Parham noted that residency restrictions relate to where the offender can sleep at night, but children aren't present in schools at night.

Parham cited a case in which an offender's parents lived 970 feet from a licensed day care center.

Children are present in the center during the day, and the offender is free to stay in his parents' home all day long. At night he has to sleep at the home of a neighbor, who is a friend of the family, because the neighbor is just over 1,000 feet from the empty day care center.

Another offender sleeps in a tent and spends the day at his brother's home, which is within 1,000 feet of a restricted location.

Parham said the restrictions also disproportionately affect juvenile offenders and their families. Thirty-three percent of sex crimes against children are committed by juveniles, said Parham, with siblings being common targets.

At the same time, the recidivism rate for juvenile offenders is extremely low, about 6 percent, Parham said.

“Now you’re talking about an ordinance that will basically force families into having to move because the juvenile can’t just go move out on their own,” Parham said. “This has a huge impact not just on the juveniles themselves, but also the victims.”

Experts say the restrictions focus on the relatively rare incidence of abductions by strangers when the overwhelming majority of sex offenses against children involve people they know – family members, family friends, teachers, coaches and neighbors.

“I think people are in denial,” said forensic psychologist Laura Umfer. “At the end of the day, it doesn’t matter if you know where they live, because anywhere from 93 (percent) to 97 percent of the cases involve the victim knowing the offender, so it’s usually under your nose. At the end of the day, you have to look inside your house, and people don’t want to do that because it’s terrifying.”

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Will Allen

Also need to point out that the U.S.' "s*x offender" laws have been the CAUSE of children being murdered and increased s*x crimes. The S*x Offender Registries (SORs) are negligibly beneficial but they cause HUGE problems every single day they exist. Children have been murdered directly and demonstrably because of the SORs.

And obviously we have to ask the harassing terrorists like Sandy Murman - if the SORs are USEFUL AT ALL, where are the rest of the national, public Registries? Why do you terrorists want people who have SHOT CHILD IN SCHOOLS TO LIVE NEXT DOOR TO SCHOOLS? Is it so they can get a better shot? Your WITCH HUNT is transparent to anyone with a brain who is not a hate monger.

Like · Reply · Mar 1, 2016 5:42am



Will Allen

Obviously politicians and big government are criminals and out of control. How do we shrink them to about 1,000th of their current sizes?

I will continue to work as hard as I can to keep criminal big governments broke and dysfunctional. For now that appears to be the best way to control their crimes.

Like · Reply · Feb 29, 2016 10:35am



Katrina Kane

Who voted for this idiot who knows the research and knows this law will do nothing to protect

Figueroa, Norma

From: Hilliard, Ralph W.
Sent: Friday, March 17, 2017 9:44 AM
To: Figueroa, Norma
Subject: FW: Summary and attachments
Attachments: COG Planning Board Meeting.docx; COG Planning Board Meeting attachments.docx; Current Ordinance.docx; ITM zoning compliance application p1.jpg; ITM zoning compliance application p2.jpg; Letter from City to ITM.jpg; Letter From ITM to City.jpg

From: deborah hart [<mailto:hartline64@yahoo.com>]
Sent: Friday, March 17, 2017 12:07 AM
To: Hilliard, Ralph W.; Maria0407; Judy Skinner; L. C.; Jeff Knee; persimmonearlylearningacademy@gmail.com; greg@beaconcms.com; mayor; Sally Adkins; Thomas, Wendy C; citymgr; citycomm; cindy.swirko@gainesville.com; Jones, Tony R.
Subject: Fw: Summary and attachments

Hi Ralph,
This is the what we would like included for the plan board; and, the meeting with the plan board on March 23, 2017.
Thank you.
Deborah Hart

City of Gainesville Planning Board Meeting, March 23, 2017

Items concerning rehabilitation/social service centers in residential neighborhoods and a proposed ordinance addressing these centers – comments from neighbors in the Oakview and Grove Street Neighborhoods

The City of Gainesville received an official application for zoning compliance from Intensive Treatment Modalities (also known as ITM, attached) on October 13, 2015 for a property at 1208 NW 6th Street. This application contained an incomplete description of the businesses services. Applicants representing Intensive Treatment Modalities failed to disclose that their business consists largely of court ordered therapy in the northcentral Florida area in the areas of sex offense, theft and fraud, anger management, competency restoration (practice of treating a person who has committed a crime to the point where they can stand trial for their crime), and substance abuse. Disclosure of these business practices would have alerted staff that the intended use fell under the category of rehabilitation center which would have specific code compliance requirements. However, City of Gainesville Planning staff was apparently unaware of the intended use and approved this zoning compliance based on information submitted.

Members of the Oakview neighborhood became aware of the planned activities of their new potential neighbor and approached the City. Given that these services were to be offered in close proximity to schools and family homes, the neighborhood engaged Planning department staff to address apparent zoning violations. The neighborhood also met with City officials and GPD staff as well as local experts in the area of rehabilitation. The message was conveyed to neighborhood residents that this facility was poorly placed and posed a threat to the safety of neighborhood residents and the many child centered businesses in the area.

In the City's letter to ITM dated April 11, 2016, Ralph Hilliard, COG Planning staff member, states "If the clients that you are serving are receiving services through a contract (such as a contract from the Department of Corrections, Juvenile Justice, or other State or Federal agencies) with your company or individual staff, that use would not be allowed." Mr. Hilliard defines this type of use as being a "rehabilitation center" under the City's code and therefore requiring a Special Use Permit in OF zoning. Further, the only type of counseling that can occur at the 1208 NW 6th Street are for clients seeking counseling on their own.

After receiving this notice, Intensive Treatment Modalities opened an off-site office at 116 NW 6th Street solely for treatment services for sexual offenders. The off-site office remains without a sign identifying its existence, and neighbors have noticed little activity at this site. A letter from Brandi Smith of Intensive Treatment Modalities dated April 1, 2016 (attached) states that this business will provide an off-site alternative location while "waiting to clarify how to proceed with our objective to do our intended work at the 1208 NW 6th St location".

Other programs - juvenile programs (anger management, sexually reactive youth, substance abuse), adult court related programs (anger management, substance abuse), competency

restoration program, and theft fraud intervention program conducted by Intensive Treatment Modalities presumably continue to be serviced from the 1208 NW 6th Street location.

What is taking place at either facility is not clear. Without verification from Intensive Treatment Modalities, it is difficult to determine the true nature of their use.

During public comment at a Gainesville City Commission Meeting May 19, 2016, residents expressed concerns regarding this issue. One suggestion at the meeting was that the City's code be updated to more clearly address the issue of protecting the safety of Gainesville neighborhoods by requiring standard buffers for rehabilitation centers in relation to schools, child centered businesses and residential properties. One focus of the meeting was the treatment of sex offenders at Intensive Treatment Modalities. An example of a sex offender treatment ordinance was offered to staff by neighbors in the hopes of addressing one portion of the concerns.

Almost a year later, the City has proposed an ordinance that addresses sex offender treatment centers, but this ordinance is not comprehensive in addressing the additional safety concerns posed by Intensive Treatment Modalities and similar facilities. For neighbors, this code does not address all of the safety issues presented to neighbors by GPD and also not the issues brought to the commission and subsequent boards by neighbors.

For neighbors, concerns with this proposed ordinance includes its omission of the terms "rehabilitation center" and "social services center". These classifications have important significance in this situation. While the proposed ordinance may address the sex offender portion of court ordered services offered by Intensive Treatment Modalities or similar facilities, it would not address other services that pose safety concerns for surrounding residents. The new ordinance omits important restrictions currently covered by "rehabilitation center" and "social services center".

Development and use standards required of rehabilitation centers provide minimum standards like setbacks, buffers, and development review. The good part about development review is that GPD would have an opportunity to review and comment on public safety issues. At a minimum, the new ordinance should have similar standards.

Beyond the need for inclusion of rehabilitation center in the City's code and regarding the proposed ordinance - the definition of sexual offender treatment center would suggest that if a facility was treating even one sex offender, juvenile or adult, then that facility would be categorized as a sexual offender treatment center under the proposed code. Clarification of this should be confirmed by planning staff on the record at the Plan Board. As mentioned, the definition really doesn't do anything to address the other court-ordered services offered by Intensive Treatment Modalities or similar facilities.

Other questions for the board to consider regarding this issue include:

How will the City be able to distinguish between general counseling and sexual offender treatment centers when making a determination of zoning compliance?

How would the City be able to determine if counseling is being conducted for sexual offenders through State or Federal contracts, e.g, DOC?

What would be the City's action to stop such as use if it could determine the use violated the Code?

What incentives could the City have for encouraging transparency and honesty about intended use in business application for zoning compliance?

How will the City assure that Intensive Treatment Modalities is complying with current zoning?

If the proposed ordinance replaces existing language, will court ordered rehabilitation services be allowed to take place at Intensive Treatment Modalities?

Neighbors have observed the daily influx and outpour of clients at Intensive Treatment Modalities. There are times of day when groups appear to meet. It is not known whether these clientele visiting ITM pose safety risks for children and families in the neighborhood. Warnings from GPD and research on recidivism rates for those issues treated at Intensive Treatment Modalities communicate that the Oakview and Grove Street neighborhoods could be at risk.

Neighborhood residents have experienced encounters with individuals waiting for their appointment at the facility. Some of these encounters had clientele making intimidating remarks to neighbors. Another encounter involved clientele approaching a home across the street with children in the yard asking for fruit. This residence has since installed a privacy fence.

Neighbors know that this center conducts counseling services for a population of individuals facing impulse control issues to the point where they require court mandated treatment. This knowledge poses a daily stress on residents.

If ITM is able to take its court ordered business to the alternative location and use the 1206 buildings for an administrative office and for non-court ordered counseling, this business would be compatible with neighborhood safety concerns as long as sex offender assessments and counseling take place at the alternative location.

There are other issues with the proposed ordinance. The City's ordinance and special use permit standards lack predictable and meaningful standards to ensure compliance. The City's Special Use Permit requirements really do not address issues of public safety and compatibility in a meaningful and predictable way. Discretion to impose conditions is solely with City, and the Special Use Permit language in the Code does not provide much guidance.

The Oakview neighborhood hopes that the City will work to ensure the safety of its residents by following current code requirements. We hope that ITM protects the safety of residents and respects the City's current code by conducting court ordered clientele at an alternative location.

Attachments:

Zoning compliance application, Intensive Treatment Modalities, October 13, 2015

City's letter to ITM, April 11, 2016

Letter from ITM to City, April 1, 2016

Current code language regarding "rehabilitation center" and "social services center"

City of Gainesville Code related to Rehabilitation Centers and Social Service Centers / Halfway Houses

Definitions:

Rehabilitation center means a facility providing professional care, nonresident only, for those requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar problems.

Social service home or *halfway house* means a facility providing professional care, resident or nonresident, for those requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar problems.

- **Sec. 30-108. - Rehabilitation centers.**

(a)

Dimensional requirements.

(1)

Minimum lot area: 10,000 square feet.

(2)

Minimum lot width at minimum front yard setback: 100 feet.

(3)

Minimum yard setbacks:

a.

Front: 25 feet.

b.

Rear: 20 feet.

Except where rear yard abuts property in a residential district or property shown for residential use on the land use element of the comprehensive plan: 35 feet.

c.

Sides:

1.

Street: 10 feet.

2.

Interior: 20 feet.

Except where the side yard abuts property in a residential district or property shown for residential use on the land use element of the comprehensive plan: 35 feet.

(b)

Spacing and location. Rehabilitation centers shall not be located closer than 1,320 feet from any other rehabilitation center, halfway house or social service home and shall not be located closer than 1,320 feet from any soup kitchen (food distribution center for the needy) or residence for destitute people or combination thereof. All measurement shall be from the

nearest property line of any of the above-listed facilities to the nearest property line of the proposed facility.

(c)

Buffer. Rehabilitation centers shall comply with the buffer requirements of offices, schools and places of religious assembly in accordance with the landscape ordinance.

(d)

Development plan approval. Development plan approval, in accordance with the requirements of Article VII, is required prior to the issuance of a building permit for all *rehabilitation centers*.

(Ord. No. 3777, § 1, 6-10-92)

• **Sec. 30-109. - Social service homes and halfway houses.**

(a)

Dimensional requirements. All principal and accessory structures for social service homes and halfway houses shall be located and constructed in accordance with the following requirements:

(1)

Minimum lot area: 10,000 square feet.

(2)

Minimum lot width at minimum front yard setback: 100 feet.

(3)

Minimum yard setbacks:

a.

Front: 25 feet.

b.

Rear: 20 feet.

Except where the rear yard abuts property in a residential district or property shown for residential use on the land use element of the comprehensive plan: 35 feet.

c.

Side:

1.

Street: 10 feet.

2.

Interior: 20 feet.

Except where the side yard abuts property in a residential district or property shown for residential use on the land use element of the comprehensive plan: 35 feet.

(b)

Spacing and location requirements. Social service homes and/or halfway houses shall not be located closer than 1,320 feet from any other social service home, halfway house, community residential homes for 21 persons or more or rehabilitation *center* and shall not be located closer than 2,640 feet from any soup kitchen or residence for destitute people or combination

thereof. All measurement shall be from the nearest property line of any of the above-listed facilities to the nearest property line of the proposed facility.

(c)

Buffer requirements. Social service homes and halfway houses shall comply with the requirements of offices, schools and places of religious assembly in accordance with Article VIII.

(d)

Development plan approval. Development plan approval, in accordance with the requirements of Article VII, is required prior to the issuance of a building permit for all social service homes and halfway houses.

(Ord. No. 3777, § 1, 6-10-92; Ord. No. 3993, § 13, 7-25-94)

Zoning Compliance Approval Form

ZCP #: <u>EC-15-00368</u>		For Office Use Only	
<input checked="" type="checkbox"/> ZCP Approved	<input type="checkbox"/> ZCP Approved with Conditions	Date: <u>10/13/2015</u>	<input type="checkbox"/> ZCP Denied
			Received Stamp <u>OCT 13 2015</u>

A Zoning Compliance Approval Form must be completed for the following: Zoning approval for non-residential uses, Building Inspections Department approval (Change of Use or Occupancy Permit, if needed), and Business License Tax. Please be aware that Day Care Centers, Assisted Living Facilities, Group Homes and Businesses moving into new location may require additional permits and/or approvals, please contact the Building Inspections Department at (352) 334-5050.

Please read and initial the following statements:

- BS I understand that I must Comply with the Current Florida Building Code through the Building Inspections Department (352) 334-5050, the Current Florida Fire Prevention Code through the Gainesville Fire Rescue Risk Reduction Bureau (352) 334-5065, and obtain any necessary permits for Construction and Remodeling.
- BS I understand that I must obtain a Local Business Tax Receipt (Business License) through the Finance Department (352) 334-5024.
- BS I understand that falsifying any information may result in my Zoning Compliance Approval being revoked.

After completing this page, forward the document to the Planning Department (drop off, mail, fax, or e-mail) for processing. After the Zoning Compliance Approval Form is processed, it will be returned to the Applicant as requested at the bottom of this page of the application.

Part I - To be completed by Applicant

New Application

Renewing Application for Business License

Name of Business: The ITM Group

Address of Business: 1208 NW 6th Street

City: Gainesville State: FL Zip Code: 32601

Business Phone #: (352) 379-2829 Fax: (352) 379-2843

Proposed Use of Premises: Counseling Services including Human Relations + Substance Abuse Counseling

Applicants Name: Brandi Smith

Mailing Address: 225 SW 7th Ter

City: Gainesville State: FL Zip Code: 32601

Business Phone #: (352) 379-2829 E-Mail Address: bsmith@itmflorida.com

Signature of Applicant: Brandi Smith Date: 10/13/15

Return to Applicant by: Pick up at Thomas Center Regular Mail Fax E-mail

Part 2 -- To be completed by staff

Planning Division Analysis

Initial Review Date: 10/13/2015

Tax Parcel Number: 09695 - 000-000

Map Number: 3850

Zoning District: OE SIC Code: 18049

Murphy Wellfield Protections Permit

Located in Wellfield Zone: Yes No

Primary

Secondary

Tertiary

Permit Required: EXEMPTION

WELLFIELD SPECIAL USE PERMIT

WELLFIELD PERMIT

Conditions or Comments: _____

Special Overlay Plans or Districts: Yes No

Central Corridors

NW 39th Avenue

Corporate Park

Traditional City

University Heights

SW 13th Street

Five Points

Gateway Street

Special Environmental Overlay

Idylwild-Serenola

College Park

Significant Ecological Communities

Parking Standard for Zoning District

Parking Standard, Vehicle: 1 per 150 SF

Bicycles: 10% of Vehicle Standard

Comments: _____

SIGNATURE/PLANNING DIVISION

Michael J. Age

DATE: 10/13/2015

April 11, 2016

Kyle J. Benda, Esq.
Knellinger, Jacobson & Associates
2815 NW 13th Street, Suite 304
Gainesville, Florida 32609
Subject: ZC-15-00368

Dear Mr. Benda:

City Staff met with the City Attorney's office regarding your letter dated March 25, 2016. Based on that meeting it was determined that Planning Staff should clearly identify for you and your client what uses are allowed on the property at 1208 NW 6th Street, by ZC-15-00368 and the Office zoning on the property. It is not the intention of staff to revoke the zoning compliance but to clarify what is allowed.

The City's Land Development Code (LDC) (Section 30-22) currently uses the 1987 Edition of the Standard Industrial Classification Manual for the purpose of classifying uses of property except for those terms that are specifically defined in Section 30-23 of the LDC. The zoning compliance form (ZC-15-00368) was approved for mental health, human relations (social skills training) and substance abuse counseling and all the uses allowed by Standard Industrial Classification IN 8084 (see attached list). This category allows the health practitioners (IN 8084) that provide the services listed on the zoning compliance form. The zoning compliance does not allow uses that fall within the category of a rehabilitation center. A rehabilitation center is specifically defined in the City's Land Development Code as, "a facility providing professional care, nonresident only, for those requiring therapy, counseling or other rehabilitative services related to drug abuse, alcohol abuse, social disorders, physical disabilities, mental retardation or similar problems." The key phrase in the definition for rehabilitation center is "for those requiring therapy". If the clients that you are serving are receiving the service through a contract (such



Alvin Butler, LMHC ♦ Harry Spears, LMHC

April 1, 2016

Ralph Hilliard,

These prospective locations are being submitted to the City Zoning authorities on behalf of The ITM Group. We are provisionally sending these tentative locations as alternative places to provide outpatient sexual offender treatment during our present period of waiting to clarify how to proceed with our objective to do our intended work at the 1208 NW 6th Street location. This effort represents our effort to amicably work out a solution to our current differences. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Brandi Smith". The signature is written in black ink and is positioned above the printed name.

Brandi Smith